S. HRG. 100-400

FEDERAL GOVERNMENT'S FORFEITURE PROGRAMS SEIZED CASH AND FORFEITED PROPERTY MANAGEMENT

HEARING

BEFORE THE

SUBCOMMITTEE ON FEDERAL SPENDING, BUDGET, AND ACCOUNTING

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS

UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

FIRST SESSION

SEPTEMBER 25, 1987

Printed for the use of the Committee on Governmental Affairs

U.S. GOVERNMENT PRINTING OFFICE

87-856 WASHINGTON : 1988

For sale by the Superintendent of Documents, Congressional Sales Office
U.S. Government Printing Office, Washington, DC 20402

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FEDERAL GOVERNMENT'S FORFEITURE PROGRAMS SEIZED CASH AND FORFEITED PROPERTY MANAGEMENT

FRIDAY, SEPTEMBER 25, 1987

U.S. SENATE,
SUBCOMMITTEE ON FEDERAL SPENDING,
BUDGET, AND ACCOUNTING,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 9:45 a.m., in room SD-342, Dirksen Senate Office Building, Hon. Lawton Chiles (Chairman of the Subcommittee) presiding.

Present: Senators Chiles and Heinz.

OPENING STATEMENT OF SENATOR CHILES

Senator CHILES. Today the Subcommittee will continue its series of hearings on the Federal Government's forfeiture programs. These programs allow the Justice Department and Customs Service to seize property and cash from criminals and share assets with local and State agencies who assisted in the case.

The forfeiture programs have become extremely popular since their beginning in 1985. If Members of Congress had not realized the support for these programs in their States, they certainly do now. Recent action by the House to defer $30 million in the Justice Assets Forfeiture Fund until next year brought an outcry from law enforcement in every State. I am happy to report that this week the Senate Appropriations Committee dropped the House language and I am confident that we will prevail on that in conference.

State and local law enforcement officials support these programs because these programs support them. Under the forfeiture laws the State and local Governments have shared in millions to be used in enforcement. I know my State of Florida has received about $3 million since the program began, and these funds have been earned by counties and cities throughout the State and can truly be credited with strengthening their fight against drugs.

The drug war, like all wars, is costly. A lot is asked of the State and local law enforcement people and a lot is asked of the Federal Government. Last year, the United States spent over a billion dollars in drug enforcement. This was supplemented by millions from every State and locality.

The new drug law increases the U.S. dollar commitment to drug enforcement, but it also allows Government to tap a major source of funds—the drug dealers. And as important as the dollars, the

forfeiture programs have encouraged a cooperation between Federal and local law enforcement which is crucial to stopping the traffickers.

That is the success side of the history of the forfeiture programs. But like many new programs dealing with millions of dollars, there have been some glitches. This Subcommittee has monitored the programs since 1985 and worked with the agencies to iron out the problems.

For example, seized boats were deteriorating on the Miami River. The United States was losing money and the people of Miami were experiencing a polluted waterway. Working with the Customs Service, we have managed to clear the river of these vessels.

Earlier this year, this Subcommittee addressed the problem of cash flow under the programs. According to the General Accounting Office, the Customs Service and DEA had over $223 million on hand which had not been deposited in the forfeiture funds. We discovered there was no national plan for transferring and depositing these dollars and an inaccurate national inventory of the dollars.

This total lack of an audit system is being addressed and I am hopeful the result will be getting the seized cash processed more readily and into the hands of our law enforcement officials. I believe our witnesses from the Administration will be giving us a status report today.

Also, we were very concerned as to whether we were losing interest monies on these funds and we had a spirited discussion as to whether these funds could earn interest or not, with the Justice Department feeling they could and certain people in Customs feeling they could not. I am now very happy that I think today we are going to hear that all funds are drawing interest.

Today we will begin to study the management and processing of seized property. The vast variety of properties being confiscated by the Federal agents has ranged from gold mines and horse farms to small shacks in rural areas.

I realize that real estate poses a more complex situation than cash. I know the Marshals Service personnel are spinning their wheels and in essence, playing the role of a major real estate agent. In addition, our Government has had to become experts in managing enterprising like horse farms, flower shops and antique stores until these properties could be forfeited.

But, real property like the Miami River vessels lose some value if simply left to sit and deteriorate. Investigations, litigation and forfeiture proceedings have to take place, and I acknowledge that. But there are reports that the time-lag is unrealistic in many instances. This results in a loss of value as well as denial of funds for enforcement purposes. We hope to correct these problems.

Our first witness today is going to be Mr. Gene Dodaro, Associate Director of the General Government Division of the General Accounting Office.

The GAO has assisted this Subcommittee throughout its entire investigation of the forfeiture program. On behalf of the Subcommittee, I want to thank them for their work and cooperation.

We are delighted to have Senator Heinz with us this morning and Senator, I call on you for any opening statement that you may have.

OPENING STATEMENT OF SENATOR HEINZ

Senator HEINZ. I just want to compliment you, Mr. Chairman, on holding these hearings into seized cash and forfeited property management. You have already made a great deal of progress in the area of seized cash. Property management may be somewhat more complex, but whether it is the effective management of one or the other, to have cash sitting around collecting dust—rather than interest—in vaults, or to have assets wasting away when they could be put to some kind of necessary use, or equally bad, when their poor management is causing a hazard or difficulty for others, are nonetheless questions that we at the Federal Government, in our capacity as stewards for this program, must necessarily address.

Mr. Chairman, that is what you are doing. You are focusing on this issue. To some people, it may seem trivial, but I suggest that if every Subcommittee and Committee and every agency and department and subdepartment really focused on how we did a better job of managing the Federal taxpayers, if you might say, asset portfolio, even down to, I suppose you could say, the paper clips and pencils, we would not have the tremendous budget deficits that we have, and more importantly, people would feel that we are giving them real value and service for the money that the taxpayers provide.

So, Mr. Chairman, I commend you on these hearings. I only regret I will not be able to stay for most of them. We have a ten o'clock caucus in Senator Dole's office, the purpose of which, I think, is to try and economize on amendments to the DOD authorization, and we will bend our best efforts in that regard.

Senator CHILES. I hope we can invoke some forfeiture on some of those amendments. It would be very helpful to us if we could. [Laughter.]

Thank you, Senator.

Mr. Dodaro, I will call on you and let you begin with your statement. Again, with our thanks for the work that you have all done.

TESTIMONY OF GENE L. DODARO, ASSOCIATE DIRECTOR, GENERAL GOVERNMENT DIVISION, GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY KARLA CORCORAN, SENIOR EVALUATOR, GAO, AND SEBASTIAN CORREIRA, GAO

Mr. DODARO. Mr. Chairman, Senator Heinz, we appreciate the opportunity to discuss the asset forfeiture programs operated by the Justice Department and the Customs Service. At your request, we examined the operation of both agencies' forfeiture funds and Justice's management of real property.

With me is Mr. Sebastian Correira, who is in charge of our seizure work, and Ms. Karla Corcoran, who led the real property review. With your permission, I would like to submit our written statements and provide a brief summary.[1]

Senator CHILES. Both of your statements in full will be inserted in the record, and I appreciate your briefing.

Mr. DODARO. I will first summarize our points on the forfeiture funds and then discuss Justice's real property program.

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[1] See p. 35 and p. 62.

The amount of money in the forfeiture funds is substantial and growing. Through June 30, 1987 Customs and Justice have deposited a total of over $230 million after expenses. We believe that three basic changes are needed to increase Congressional oversight over these funds.

First, the Congress should limit the amount that can be carried forward in Justice's Fund from one year to the next, and require the surplus funds to be transferred to Treasury's General Fund or set aside for some other Congressionally approved purpose. Unlike Customs, Justice currently is allowed to keep all year-end funds to be spent at its discretion in the upcoming years. Justice's Fund balance continues to grow and as of August 31, 1987 it totaled $88 million.

We discussed this increasing fund balance with the Deputy Associate Attorney General and he agreed that it was not necessary to carry over such large sums. An amount in the $10 million to $20 million range should be sufficient.

Our second suggested change concerns the spending limitations imposed on the Customs Funds. These limitations result in Customs using a cumbersome accounting method which records only net revenues and net expenses.

We believe that these limitations should be eliminated or changed to permit a more thorough recording of all receipts and expenses, as required by the Comptroller General's accounting principles, and reporting standards.

Our third suggestion to help assure adequate control and oversight is that the Congress should require an annual financial audit of the Customs and Justice Funds, including the preparation of financial statements.

Now, I would like to turn to our observations on Justice's management of real properties. Seizures of land, houses and commercial enterprises have grown significantly since 1984. As of June 30, 1987, Justice had almost 1,100 real properties appraised at $186 million, compared to 209 properties worth $76 million in October, 1984.

We reviewed real properties, disposed of an on-hand, in Miami, Dallas and Houston districts—which are among the largest in real property activities—as well as selected million dollar properties in other districts. This work indicates that Justice has made money on certain properties, but it is also seizing many properties with marginal prospects for producing a profit.

Justice realized a $2.1 million profit on the 47 disposed properties that we reviewed. However, 26 of these properties realized no profit or incurred losses totaling $83,000. Such unprofitable properties create an administrative burden and detract from processing profitable ones.

Additionally, unprofitable properties sometimes result in innocent mortgage holders incurring losses.

Unprofitable properties were seized and held for lengthy periods because Justice did not adequately consider the defendant's equity. This equity is the only amount of the property's appraised value that is forfeitable to the Government once liens, mortgages and other costs are paid. Justice's criteria for deciding whether it

should seize a property is too low to prevent seizing unprofitable properties.

Justice has also experienced substantial difficulties in trying to sell real properties. Properties we reviewed that were offered for sale were often withdrawn, of if sold, usually cancelled or significantly delayed before going to settlement. These problems occurred because Justice had not complied with all forfeiture requirements or because buyers could not obtain the necessary title insurance.

Title companies were reluctant to ensure title because Justice could not demonstrate compliance with all forfeiture requirements or because the companies had reservations regarding the forfeiture process.

Our work indicates that the Department may need to develop or acquire more expertise in real property law and management. This is necessary to adequately deal with the complexities of transferring title for forfeited properties. Further complicating this situation is the lack of accurate information in managing the program and an increasing workload on the Marshals.

In summary, we recognize that the main reason for seizing assets is to economically punish the criminals. But Justice's policies also stress that it operate the program using sound business practices and to protect the valid interest of innocent parties. Within this context, we recommend that the Attorney General, first, revise agency criteria for determining when it is worthwhile to seize real property to better recognize the defendant's equity and anticipated cost of forfeiture.

Secondly, improve the accuracy of real property information, including the reporting of defendant equity represented in the real property inventory. And thirdly, assess the extent to which legal and management real estate expertise is needed and make arrangements to increase this knowledge in-house or obtain it through outside counsel.

These actions will help assure that the seizure of unprofitable properties can be minimized or quickly returned to the owner and that title issues can be quickly resolved.

In closing, I want to recognize the cooperation extended to us by Customs and Justice. They have made good progress in strengthening their management of seized cash, and we believe additional improvements can be made in Justice's management of real property as well.

That concludes my statement, Mr. Chairman. We would be happy to answer any questions.

Senator CHILES. Thank you very much for your statement.

The primary difference, as I understand it—and this is going back to your full statement—on the Assets Forfeiture Fund between the two agencies is that Justice records all of the receipts into its Fund and Customs just sort of nets out the net receipts and net expenses, so Customs can pay some salaries for some people that Justice cannot.

Does the General Accounting Office believe that one of these systems is better or is more advantageous than the other?

Mr. DODARO. Yes, Mr. Chairman. We think the Justice method of recording all receipts and expenses is the preferred method. Customs' practice of netting does not comply with the Comptroller

General's standards for accounting and reporting, and we believe that all revenues and all expenses need to be recorded to have an accurate, complete description of the Fund's activities. This provides much better control over the funds and also provides the Congress and others with better information on the Fund's activities.

Senator CHILES. What you are actually expending and how that chain is working, the audit chain.

Mr. DODARO. That is right. We think that then those statements can be audited and that will provide better control and oversight over the Fund's activities.

Mr. CORREIRA. Senator Chiles, if I may add a point on that, they are following the practice that they are because the spending limitations, for example, in 1986 were set at roughly $7.5 million. That has no relationship to the actual expenses needed to properly manage the volume of assets that they have. They estimated $17 million to $18 million were actually spent in the program.

So they go through this netting process to stay within the Congressionally imposed spending limitations.

Senator CHILES. So it is something Congress has done that has put them in this position, in effect?

Mr. CORREIRA. You said it, Senator, not I. Yes, you are right. If you are going to establish spending limitations, it ought to be established after considering actual expenses in recent years and the best estimates of the agency in terms of what the anticipated expenses are going to be. And then I think if you want to establish a limitation, it would have a greater relevance to what is needed to operate the program.

Senator CHILES. In your statement, you expressed some concern about the fact that the Department of Justice is allowed to retain their year-end balance and spend it for programs in the Department. I take it your concern is not so much the way that they are using the money, but that Congress has little or no oversight over that.

Mr. DODARO. That is correct, Senator. As of August 31st, Justice had about $88 million in that Fund balance and there was over $120 million more in the holding account ready to be transferred into the Fund once the forfeiture proceedings had been completed.

We believe that some additional Congressional oversight is needed over those Fund's activities. In fact, the type of oversight that we are contemplating is similar to the bill that you are cosponsoring, S. 789, which would require all funds over $10 million to be deposited into a special forfeiture Fund. Monies out of that Fund would be appropriated by the Congress for certain Federal, State and local law enforcement activities.

Senator CHILES. That, again, was one of the hiatuses or one of the losses that occurred in a conference in the drug bill when the Senate had some provisions and the House would not allow some of those provisions to go in. And I think that is exactly how we got into that situation.

Your testimony points out that Justice's Fund's year-end transfer requirement was eliminated by the Anti-Drug Act of 1986 and your testimony also mentions that Justice's continuing appropriation for 1987 removed their spending limitation of $10 million. I take it you

think these changes resulted in Justice having too much liberty in the spending and accruing of its Forfeiture Fund?

Mr. DODARO. We think additional oversight would be warranted and, as indicated earlier, I would think the Department would agree.

Senator CHILES. I have some questions on real property. In GAO's survey, you discovered that some properties have been in the inventory for a long period of time.

What was the longest period of time that you surveyed?

Mr. DODARO. About three years.

Senator CHILES. What was the reason for that long period of time? Do you know?

Mr. DODARO. I will ask Ms. Corcoran to respond.

Ms. CORCORAN. On most of the properties, the reason why they were held for long periods of time was because the hearings for third-party interests had not been held as timely as what they could have been.

These properties had been, in many instances, actually forfeited to the Government—the defendant's interest, that is—forfeited to the Government. However, they had not had hearings to resolve other third-party interests in those properties which must be held in order for the Government to get clear title to those properties.

Mr. CORREIRA. Senator, usually those questions were not identified until the property was being offered for sale. At that time it became obvious that these hearings had not been held. In some instances, the property had actually been sold but could not go to settlement for those reasons, so they then had to go back and clear the title to the property.

Senator CHILES. Well, was that because there was no sort of "tickler" file or something to require that the——

Mr. DODARO. That is right, Senator. One of the things we are recommending is that there be a requirement for when those hearings should be initiated. There was really no requirement that they be initiated once the seizure had taken place.

Mr. CORREIRA. It is also correct, Senator, that all the information is in individual files and at the locations that we went to, they could not readily tell us how many properties had been disposed of or how much money had been made on the sales of the properties.

They report the property value at appraised value. That does not represent the interest that is forfeitable to the Government.

Senator CHILES. So really, all they had as a record was the appraised value of that property, and then the rest of the information is all just in the individual files. There is no central index?

Mr. CORREIRA. That is correct. And the information in the individual files was incomplete. It lacked legal documents and information on outstanding liens, and so it is only when the property was being offered for sale that accurate information was obtained.

Senator CHILES. The General Accounting Office has reviewed several properties in Miami that have been seized by the Government. I understand about 30 properties. Could you tell me what happened? I understand there was a motel located on Biscayne Boulevard in Miami. Can you tell me what happened in that one?

Ms. CORCORAN. Yes. On that particular motel, it was seized in July of 1986. It was engaged in an inappropriate business for the

Government to be involved in, an hourly business, so they closed it down.

Senator CHILES. I do not understand that.

Ms. CORCORAN. It was known for prostitution and for having drug dealings going on.

Senator CHILES. Did you say an "hourly" business?

Mr. DODARO. That is General Accounting Office terminology. [Laughter.]

Senator CHILES. I think I am beginning to get it. We did not continue to run this one did we?

Ms. CORCORAN. Very shortly after the property was seized, the Marshals Service made arrangements to close the motel down.

Senator CHILES. Good.

Ms. CORCORAN. It has since been returned to the lien holder because the amount of equity that was in the property was not great enough to warrant keeping the motel and trying to sell it.

Senator CHILES. So that was one that they seized. Then they had to close the business down. Then they found out that the defendant just did not have enough equity in the property, so we ended up turning it back over?

Ms. CORCORAN. That is correct.

Senator CHILES. I understand you have information about a mobile home park in Lakeland, Florida.

Ms. CORCORAN. On this particular mobile home park, when they seized the property in January of 1986, it had a value of about $3 million. The liens and the costs on that particular mobile home park are $3.6 million. So we projected that it would lose approximately $580,000 if is sold at the appraised value. So this is an example of one where the equity in the property—the defendant's equity in the property—was not sufficient to warrant seizing if they do sell the property for its current value.

Senator CHILES. Does the Government have that property seized now?

Ms. CORCORAN. Yes, that is correct.

Senator CHILES. And the liens are——

Ms. CORCORAN. $3.6 million.

Senator CHILES. And the appraised value is only $3 million?

Ms. CORCORAN. That is right.

Senator CHILES. So we have not turned that one back yet, or we do not know what—they have not taken it?

Ms. CORCORAN. They are still in the process of deciding what to do on that particular property.

Senator CHILES. Is that one that we are running?

Ms. CORCORAN. Yes, it is. There are actually trailers and mobile homes in that particular park.

Senator CHILES. Is the Government incurring an expense now for maintaining that property?

Ms. CORCORAN. Yes, they are.

Senator CHILES. You had a residence in Leesburg, Virginia?

Mr. CORREIRA. Yes, Senator. That was seized in January of 1985. It was forfeited in May of 1985. That was one of their biggest properties, appraised at $4.1 million and it was projected to make a $2 million profit.

Senator CHILES. I want to get those figures. Appraised at——

Mr. CORREIRA. It was appraised at $4.1 million and it was projected to make a $2 million profit.

Senator CHILES. Profit for the Government.

Mr. CORREIRA. In fact, I believe it was sold for $4.1 million, Senator, in September of 1986. However, that is a sale that has not gone to settlement.

Senator CHILES. But that was a Government sale? I mean, that was a sale for the forfeiture, that was not an earlier sale.

Mr. CORREIRA. That was the sale.

Senator CHILES. All right.

Mr. CORREIRA. And there were title questions because the defendant's wife claimed interest in the property. That was eventually resolved, but the problem now is that this property is a historic landmark and now the State of Virginia has imposed development restrictions on that property which is causing the buyer to reconsider his purchase.

We were informed in September of this year by the Marshals Service that it looks like that sale may be cancelled.

Senator CHILES. Well, that is one that is kind of unforeseen, it would seem like to me.

Mr. CORREIRA. Not necessarily, Senator. Because it was registered as a historic landmark and the Marshals Service or the title search did not address resolving those issues or resolving it with the State of Virginia to determine whether there were restrictions.

I think this illustrates the complexity of transferring title on forfeited property. The State laws are unique and you have to deal with these State requirements.

Senator CHILES. Well, was the Justice Department able to tell you how much of the total monies in the Assets Forfeiture Fund resulted from the sale of real property?

Mr. CORREIRA. Senator, they are not able to tell us how much money they made on real property. They do not have that information. Usually they report disposals on the basis of the appraised value, is my understanding.

Senator CHILES. Well, we certainly want to commend the GAO audit teams, particularly, you, Mr. Correira, as supervisor of these teams.

The people who worked on these teams were, from the Assets Forfeiture Fund: Ron Viereck, Los Angeles, California; Robert Leshinski, Los Angeles, California; Leyton G. Morgan, Los Angeles, California; James Black, Washington, D.C.; and Vanessa Harrison, Washington, D.C.

And from the real property team: Karla Corcoran, Dallas, Texas; William Thompson, Dallas, Texas; Kim Ryan, Dallas, Texas; Mike Buell, Dallas, Texas; Patricia Thomson, Dallas, Texas; James Black, Washington, D.C.; Vanessa Harrison, Washington, D.C.; and Richard J. Morvillo, Washington, D.C.

We want to compliment all of those people for their individual efforts.

Mr. CORREIRA. Thank you, Mr. Chairman.

Mr. DODARO. Thank you, Mr. Chairman.

Senator CHILES. Now we are going to hear from Mr. James Knapp, the Deputy Associate Attorney General from the Depart-

ment of Justice, and Mr. Jeffrey Fratter, Director of the Forfeiture Program, U.S. Marshals Service, Department of Justice.

TESTIMONY OF JAMES I.K. KNAPP, DEPUTY ASSOCIATE ATTORNEY GENERAL, U.S. DEPARTMENT OF JUSTICE, ACCOMPANIED BY JEFFREY FRATTER, DIRECTOR, FORFEITURE PROGRAM, U.S. MARSHALS SERVICE, U.S. DEPARTMENT OF JUSTICE, WASHINGTON, DC, AND JILL ELLEN MAZUREK, ASSET FORFEITURE OFFICE, CRIMINAL DIVISION, U.S. DEPARTMENT OF JUSTICE

Mr. KNAPP. Mr. Chairman, members of the Subcommittee, I am here with, on my right, Jeffrey Fratter, who is in charge of the forfeiture program for the Marshals Service, and on my left is Ms. Jo Ellen Mazurek of the Asset Forfeiture Office in the Criminal Division. They will be able to answer some of the questions on some of the specific items that have come up.

I will read selected portions of my prepared testimony.

Senator CHILES. Your statement in full will be included in the record.[1]

Mr. KNAPP. Thank you very much. I will then comment briefly in terms of the general policy issues that have been raised by the GAO testimony.

I appreciate the opportunity to appear before you this morning to discuss forfeiture efforts undertaken by the Department since my testimony on March 13th. As requested by you, I will discuss the implementation of the plan to improve seized cash management practices, the status of the backlog in processing forfeiture cases, and the management of seized property, particularly real property, by the U.S. Marshals Service. I will also discuss the question of the disposition of the surplus in the Fund.

I would like to provide you with some information which demonstrates the great success the Department and its various agencies, as well as the Postal Service, is experiencing with the forfeiture program.

Senator CHILES. Well, I want at the outset to compliment you all. You know, we have these hearings and we find some things that maybe look wrong or are things we want to change. I think you all have worked very hard in the overall forfeit business.

Mr. KNAPP. Thank you.

Senator CHILES. That is not just something I think. I get that because my State and local law enforcement people tell me they are receiving the money, and that is the proof of this pudding and they are delighted with the kind of cooperation that they are receiving. And I think it is building a teamwork. I think you are finding them much more ready to assist in a lot of cases now that they are sharing in that, and certainly your management from the outset in trying to maximize the interest money that you are receiving from the Fund, and I recognize that part of the problems we are talking about today are those created by the Congress, or as a carry-over.

So I want to make sure that I am not here trying to lay that at your doorstep. We are interested in trying to see if we can improve

[1] See p. 107.

the management in the real property. But Justice is working hard and you have particularly led that fight and I compliment you for it.

Mr. KNAPP. Thank you very much, Senator. We are currently projecting a gross income to the Fund of $175 million for fiscal year 1987. It was $159 million through the end of the 11th month of the fiscal year. This represents an increase of 87 percent over the gross income for the previous fiscal year. Fund revenues include the proceeds of completed forfeiture actions and property disposal after expenses are deducted.

The Assets Forfeiture Fund is the account from which the Department issues checks to State and local law enforcement agencies which participated in the Equitable Sharing Program. Over $40 million of the anticipated fiscal year 1987 Fund expenditures of $112 million will be shared with these State and local agencies. That represents somewhat over 33 percent of the payments made from the Fund this fiscal year. In addition to that $40-plus million—and it could go well above that at the last minute—we anticipate sharing an additional $15 million in non-cash property—that is, conveyances, boats and cars and so forth—with State and local agencies this fiscal year.

We would therefore like to thank you for your efforts, as well as the other Senators, who changed that provision in the House legislation so we can continue with this very important Equitable Sharing Program. I agree with you, it is extremely important to our overall law enforcement efforts.

We are probably looking at a surplus of about $60 million in the Fund this year. That would be my best estimate at this point in time.

Concerning the management of seized cash, we took the direct and decisive action to reduce the amount of seized cash retained in the facilities of investigative agencies for evidentiary purposes. The same day that I testified last time, Associate Attorney General Trott issued a policy directive to affected Department components outlining a national policy for seized cash management. The primary goal of the policy was to increase the security of both the seized cash and Department field offices at which the cash is stored.

But a secondary goal, of course, was to enable the Government to realize indirectly the economic benefits from seized cash in reducing the debt servicing burden of the U.S. Treasury. A policy memorandum was issued. It was successful. I am happy to report that under that policy directive, it requires the consent of the Assistant Attorney General of the Criminal Division for exceptions to retain cash beyond a 60-day period, and not deposit it into the Seized Asset Forfeiture Fund. Only seven exceptions have been granted to date and a surprisingly limited—only a very limited number were requested in the first place.

In terms of the impact on the account itself, the effect has been dramatic.

Senator CHILES. Do you think that that means just because you have got a procedure where you have to go in and get this kind of permission that a lot of people say, well, I better just go ahead and put the money in?

Mr. KNAPP. Exactly.

Senator CHILES. Yes, I think so, too.

Mr. KNAPP. In the past 4 months over $92 million has been deposited into this Seized Asset Deposit Fund, the Treasury account where non-evidentiary seized cash is held pending forfeiture. Average monthly deposits of $23 million since policy inception have nearly tripled the monthly average of $8.4 million for the 21 months prior to policy issuance. This unprecedented activity has increased the net cash balance in the account by $51 million from $87.6 million on May 1st to $139.1 million on August 31st. For all of fiscal year 1987 the net cash balance has nearly tripled.

Please note that the Treasury has realized $5.5 million in actual interest savings this fiscal year from the Department's efforts in the seized cash area. While we could in the alternative have accrued these interest savings to the Asset Forfeiture Fund, we determined at this time the Federal Government as a whole is best served when the interest savings were realized by the Treasury.

My prepared testimony deals in some detail on the question of the backlog. The indication is that the backlog has been reduced substantially in the last 6 months. I should point out, for example, the DEA backlog, while it stood at 9,500 administrative cases in December of 1986, is now down to about 1,900 cases that have not been processed to completion within 150 days of the date of seizure.

We have set a target date for the FBI, DEA, and INS of 120 days as your typical bench mark to reach from the date of seizure to the conclusion of the administrative action. We hope to achieve that goal by January 1st of next year and the agencies seem to indicate that that goal can be met.

In terms of the judicial backlog, that is a much more difficult question to deal with because you are dealing with court time and as you well know, court cases take a long time. Nevertheless, we have taken a variety of steps which are addressed in this prepared testimony to deal with the backlog problem.

Let me go back to the Equitable Sharing Program for a minute. I think it would be interesting to mention a recent study which we did—or which the Justice Management Division in our Department did. We did a scientific in-depth sampling of 195 State and local law enforcement agencies that received 352 equitable shares granted by the Department in 1986 and 1987. We undertook this survey to determine whether the Sharing Program was meeting its primary goals of increasing cooperation between law enforcement agencies and increasing State and local law enforcement resources.

Also, we were interested in having the agencies identify the uses to which the funds are applied. We wanted to be sure that they were applying them as required by the legislation and by the Congress. Responses to the survey provided strong evidence that the Sharing Program is meeting its goals; 96 percent of the recipients believe the program has had a significant impact on cooperation between the agency and Federal law enforcement agencies.

In addition, over 99 percent of the respondents indicated they plan to cooperate in future joint investigative efforts; 96 percent of the respondents said the share received had increased law enforcement resources for the agency; and 89 percent noted the share had a significant impact on the agency's ability to fight crime.

Finally, agencies reported they were applying the shared assets to a variety of law enforcement purposes of their choosing. But primarily, shares were used to purchase equipment and increase the size of the agency's fleet.

We have submitted, I believe, a table which identifies the law enforcement uses to which the shares were applied.

Let me depart now from the rest of my prepared testimony to deal with some of the issues which have been raised in the GAO testimony. The first is the question of the disposition of the surplus in the Fund. As you indicated correctly, the Congress made no provision for the disposition of the surplus and there is no doubt that if no action were taken in the next few months and no action contemplated, that the bulk of that surplus would go into the general treasury.

However, of course, the first question that arises is what do you need to carry over in any one year, and I would say that at a minimum you ought to have available the equivalent of one month's projected expenditures out of the Fund.

Senator CHILES. What would you project that amount?

Mr. KNAPP. I would say that we ought to as a cushion have at least a $20 million carryover as a safety valve. In addition to that, it may be desirable to—legislation is drafted—to permit the Attorney General, with a report to the Congress, to authorize going over that amount in an emergency situation where you knew that you had a big expenditure coming up in October.

Let's take this Shelbourne-Glebe case as an example. The total forfeitures in that case I think is around $8 million, or something like that, arising out of that whole investigation. If all of those monies went into the Fund in September—and 50 percent of that, incidentally, is going to go out to State and local law enforcement agencies, $4 million of that $8 million—but if for some reason we could not disburse that money in September, that would be a very significant expenditure that the Fund might have to bear in October. And we could have other major expenditures from forfeitures from prior fiscal years, so we need a certain amount of flexibility.

But I would think as a general rule, perhaps somewhere in the vicinity of $20 million would probably be appropriate.

Now, in terms of the surplus, the Administration has not made a formal recommendation on that, but I feel comfortable in advising the Senator that there is currently pending right now before the Drug Policy Board—as I believe is reported in a New York Times article this morning—a general proposal for major prison expansion. It is a 5-year program. I believe it is potentially a multi-billion dollar program of prison construction; it is a prison construction and detention facility construction program as well. Detention pending trial is a very serious problem in this country and it is getting worse, and the main reason it is getting worse is because of drug trafficking, and I can think of no greater justice than having the crooks pay for their own incarceration.

As a result, it seems to me that even though it would only be a portion or fraction of the overall solution to the problem, that if the surplus could be devoted towards prison construction, a surplus of let's say $50 million would probably build one prison a year. In any event, that proposal is under consideration right now before

the Drug Policy Board. It in turn will have to be submitted to the Office of Management and Budget. But I anticipate the strong possibility of a recommendation coming down from the Administration some time in the near future. And because of that possibility, I would encourage the Senate and the House to wait until we have a decision on a possible program in this regard.

I would say, though that if no action was taken, either by the Congress or by the Administration, that quite obviously we are not going to sit on $70 or $80 million.

Senator CHILES. But you would need legislation in order to transfer that money into a prison?

Mr. KNAPP. To the prisons, yes, we would. I do not believe we need legislation to remit the surplus to the general Fund, although some people have raised that question. But I am sure we would not. But we certainly would need it for prison construction, or for any other valid law enforcement purpose beyond the purposes for which we are currently authorized.

In terms of the real property management issue, of course, I was briefly briefed on this report 2 days ago and we really have not had a chance to study it in depth. But we have been aware that this was a very complex problem for some time and over the course of the last 2 or 3 years we have taken a variety of steps, or have contemplated taking a variety of steps, to deal with the problems which are caused by seizure of real property.

The point I want to make, though, at the outset and which was made at the end of the GAO testimony, is that the primary purpose of the forfeiture program is not to make a profit for the Government. It is to take the property away from the crooks and to keep it out of their hands. Because even if they have property that is heavily mortgaged, especially where they are using that property to carry on a drug business or to facilitate a drug business, it needs to be taken away from them in some form or other.

On the other hand, we have recognized for a long time that we want to manage property prudently and with a minimum of loss, and we want to be able to deal properly with these various title problems. We issued a major policy directive a little over a year ago on this subject which requires pre-seizure planning, involving consultation between the Marshals Service and the U.S. Attorneys before irrevocable decisions are made to seize or forfeit items of property that are potential losers.

The memorandum sets forth a variety of factors that should be considered, alternatives which should be explored, requirements to properly examine title insurance, and so forth. It may very well be from this report that that memorandum has not been fully complied with in all instances, and we will certainly look into that.

In addition to that, we have recently—with money from the Fund—made it clear to the U.S. Attorneys around the country that training money, which is authorized by the Fund, is available, not just for our Federal training forfeiture programs, but also to go to a State bar CLE course or something like that to get trained on local real property law. And we are actively encouraging Assistant U.S. Attorneys to take advantage of local real estate courses through use of the Fund.

More important, though, we are in the process now of finalizing guidelines which would permit retention of private counsel to advise the Marshals Service on real property issues. These guidelines have been drafted by the Asset Forfeiture Policy Committee. They were discussed this past week with the Advisory Committee of U.S. Attorneys, which I understand gave its blessing to it with very minor changes, and so we expect to finalize those guidelines within the next month. The Marshals Service will be able to, with the agreement of the U.S. Attorney, to go out and retain private counsel to advise on real property issues where that expertise is not available within the Department of Justice.

Finally, we did issue a policy several months ago which said that because of the title insurance problems, even though property was worth less than $100,000, it should be forfeited judicially rather than administratively, because we could not get title insurance in those cases.

Unfortunately, that memorandum has apparently not solved the problem. I understand for the first time myself in the last few days, that title insurance companies have continued to balk at giving title insurance in the case of judicial forfeitures, despite the legislation which we passed as part of the Comprehensive Crime Control Bill to provide for the equivalent of a Federal quiet title proceeding.

As a consequence, what I propose to do—I understand they may be submitting written testimony—after I have had a chance to review it and study it and discuss it with the people who are expert in this area, is probably meet with the representatives of the title insurance companies and see if something can be done to solve this. I do not know if it is going to require additional legislation or not at this time, but we are prepared to address it.

That concludes my prepared remarks. Mr. Fratter and Ms. Mazurek are here to answer any questions, as well as myself, that you might have.

Senator CHILES. Fine. Do either of your associates have remarks to make, or do they just want to wait until questions?

Mr. FRATTER. I do not have a prepared statement, but if I could amplify something that Mr. Knapp said, in the area of training, the Asset Forfeiture Fund is also paying for real estate training for Marshals Service employees to become more aware of local and State practice. We have been doing that for about a year now and we are trying to improve our expertise in that area.

A second point would be the area of pre-seizure planning has been very important to the Marshals Service and I hope you are not leaving this testimony with the impression that Marshals and prosecutors do not communicate, because there have been great strides in that area to try to anticipate what is being seized. However, that is not always possible in terms of liens, ownership and what-not.

Senator CHILES. The American Land Title Association has suggested that obtaining a warrant issued by a magistrate would go a long ways in allaying their fears about a proper title. Could you comment on that?

Mr. FRATTER. I am not sure I understand. A warrant? Are you talking about a type of court order?

Mr. KNAPP. Well, I would have to study that proposal, because by the time we get to the situation where property is disposed of you have a court order. We currently do not need a warrant to seize property to begin with, but, when you get around to disposing of the property, by that time you will have had a court finding of forfeitability and, theoretically, a resolution of all competing and third party interests, so by that time there should be a court order.

I do not quite understand that concern.

Senator CHILES. I do not know, either, other than whether they are saying that there are some of the properties that do not end up having that at all. But we will try to get that more definite for you.

What is the current situation with this Shelbourne-Glebe property located in Leesburg?

Mr. FRATTER. If I could just give you a little background to correct something that was stated in the GAO testimony. The property was not appraised at $4.1 million. In fact, it was appraised on February of 1985 at about $2 million with liens, I believe, of about $1.6 million. At that point in time the Marshals Service's mission, pursuant to a court order, was to protect that property. And as you can see, the property is still in fine condition and it is very valuable.

After the legal process completed, and even after the forfeiture order, we were given authority to sell the property. We hired professional auctioneers to work with the Marshals to auction that property. And with an independent appraisal of $2 million, we set that as the minimum bid.

Well, the property sold at public auction at $4.1 million. Bear in mind, an appraisal is just an opinion of value, very subjective, and the conditions were right with that auction, with a marketing strategy, to get more than twice its appraised value.

That not only maximizes the net return to the Government, but increased the ante to the equitable sharing claim that the Virginia State Police has on that property. We have a buyer on the property. The buyer is still a prospective buyer on the property. The sale is not aborted at all. But we have recently learned, even though this case has received a lot of publicity—we had an open house inviting real estate brokers and auctioneers when we were just determining how to sell. More than 250 prospective sales agents showed up.

Despite all the publicity of this case, just recently we have learned of the requirements of the 1966 Historic Preservation Act. It is a landmark—historic landmark—and we are told that Section 106 of that act must be complied with. It is basically a review process by the Advisory Board of Historic Preservation and we need to submit documents to that council to determine whether or not restrictive covenants should be placed on the property. That has yet to be determined by that Board.

We met with them last week. We are submitting information to that Advisory Council and they will need to make a determination and we will act accordingly on that.

Obviously, when you put restrictive covenants on deeds, it affects the value of the property. We marketed this property as a historic landmark. We worked with local Loudoun County officials as to

what the zoning requirements were. It happens to be zoned A-3, agricultural developmental property.

We are simply looking to sell the property as best we can and we are now dealing with the requirements of this act.

Senator CHILES. Mr. Knapp, I agree with your statement that often there are good reasons to seize property in order to halt an illegal operation. I think, though, you would agree that if you seized a piece of property—as I understand this trailer park in Lakeland—that is appraised at $3 million with liens of $3.6 million on it, we are kind of going backwards on something like that, unless the trailer park itself was an integral part of the operation of some illegal business.

Mr. KNAPP. Well, I think I will have Mr. Fratter answer this question, too. I think in a nutshell, obviously, if it looked like we were going to lose $600,000 on it, yes, we probably should not do it. But I do not believe that is going to be the situation.

Mr. FRATTER. And we are not sure yet because we have not sold the property yet. It is currently on the market and because of the amount of liens, our minimum bid will be $3.7 million. It is an operating trailer park in Lakeland, Florida; 151 lots are rented of the 403. It was something we inherited through the forfeiture process and we are trying to sell it as best we can.

What will the fair market value of the property be? I cannot tell you yet until we have a full and efficient marketing and sale of that property. We are conducting it through a sealed-bid process and not through a professional broker. We are trying to sell it ourselves to avoid sales commissions to try to minimize management costs so we can approach either a break-even or perhaps making some money.

Senator CHILES. I will be interested in seeing how that one comes out.

Mr. FRATTER. I understand.

Senator CHILES. Well, back to this memorandum, Mr. Knapp. I think you sort of said it in your statement, you have got a memorandum out there. It sets some procedures. It is kind of obvious from the GAO report now that there are a lot of people that have not read that memorandum or are not exactly following it.

So, I understand. This is a program that is kind of mushrooming. It is a new one. It is no different from the way cash started off or the way seizing airplanes started off, or boats or anything else. It takes awhile, I think, to get peoples attention, especially since this is new. But it does look like now there are some definite procedures that need to be put in.

Is there a title search done before a decision is made to seize the property? It seems like to me that if a title search is done and some kind of appraisal is required, on a lot of these you would just say, that is marginal, or there is some criteria that we would not look at that one. Why take a chance? We hope to get our money back in a trailer park and we are operating the thing now and you are going through all of that process.

That is not what our forfeiture program should be about, it seems like, so how do we stop that?

Mr. KNAPP. Well, the title search is supposed to be done. The problem, as I understand it—and maybe Ms. Mazurek can elabo-

rate on this point—is that they do not always reveal all the problems and that a lot of these problems emerge later.

Senator CHILES. But also, I think, from talking to the GAO people, the title search is not always done, either.

Mr. KNAPP. Well, obviously, in those cases——

Senator CHILES. It is one thing to say that it is done and does not reveal the problem, but you sure do not find them if you do not do it.

Mr. KNAPP. If the title searches are—when we go through the report and find out where they were not—done at all, you can be certain that we will talk to the U.S. Attorneys involved and the Marshals in the district to find out why it was not done and to direct them in the future. We may have to reissue this memorandum again with some additional procedures. I do not know. We will have to study the report for that aspect of it.

Maybe you could elaborate.

Ms. MAZUREK. Just one brief comment. As you mentioned, the program is fairly new and a number of the properties that the GAO looked at were seized quite some time ago and have been in the forfeiture process for awhile, and I do not think we did do title searches when the program came about. We were all learning what real property was like. We treated it like boats and airplanes and it was a lot different.

I do believe from my experience with Assistant U.S. Attorneys all around the country, that in the bulk of the cases a title search is done before the decision is made to seek the forfeiture of that property; at least a preliminary title search and then a full-blown title search afterwards, after we have initiated the forfeiture.

Senator CHILES. Well, again, it looks like to me one in which we have got to get some accountability in. The U.S. Attorneys have got to know that somebody is going to look at this. They can have to issue some kind of report or have some kind of egg on their face if they have not set up some procedures. And I certainly agree with you that this is probably a case in which they should be able to use some outside help in a way, because given the fact that I know what our southern district is, and all of our districts, how covered up we are with the cases themselves, to say that you are going to get that U.S. Attorney and his people to go out and spend an awful lot of time in this when they have got all of those cases going forward, I think that is going to be very difficult to do.

We really feel like we have not gotten the assistance down there that we should have received, and I can see saddling them with all of this additionally, when I think some of this could be done outside as we use a real estate agent to maybe make a sale, or an appraiser or something else. We can certainly use people to speed up and even follow some of these procedures in here.

I have some other questions that I might like to submit for the record and I would like to kind of stay in touch with you and hear what kind of steps that you are taking in regard to the report.

Mr. KNAPP. We will study this report carefully and to the extent that we need to impose additional requirements to enforce the memorandum that Mr. Jensen issued last year and enforce the provisions, like the requirements of title search and some of these other things, we will take those steps.

Senator CHILES. Thank you very much.

Now we will hear from Mr. Richard Brenner, Attorney at Law with the firm of Layne, Brenner & Dienstag located in Miami, Florida.

I understand that your firm has done some of the work in regard to forfeitures, and we are glad to get your views as to how we could improve this situation. I wanted to say at the outset, your statement in full will be included in the record and I hope you can brief that for us in the interest of our time and being able to ask you some questions.

TESTIMONY OF RICHARD M. BRENNER,[1] OF LAYNE, BRENNER & DIENSTAG, MIAMI, FL

Mr. BRENNER. Thank you, Senator Chiles. I appreciate this opportunity to be here before this Committee.

I would like to say before I begin that I think I am at a disadvantage to the other speakers who have come before. They were all employees of the Federal Government and have access to Government information. My information is based upon the actual experiences from the sales that I have been involved in.

I am an attorney in Miami and my law firm was employed by the auction company to assist them in the sale and disposition of approximately 40 properties—real estate properties—and my talk will be restricted to real estate properties as opposed to any of the other dispositions.

Senator CHILES. And you were actually retained by the auction firm, not by the Federal Government directly as such.

Mr. BRENNER. Well, there was some confusion in the beginning about that. We thought we were being employed by the Government and I guess, for one of two reasons, and I am not sure which, it turns out that the Government takes the position that we are employed by the auction company. Those two reasons are, one, to minimize or reduce the costs that the Government is paying on these forfeited properties, or the second is because, as I was told, only U.S. Attorneys can represent the United States Government. I think that is a big mistake and I think that the information that I am going to give to this Subommittee is going to point that out.

The purpose of the forfeiture laws is to punish criminal activity by taking away the fruits of the criminal activity. The possible effect is the generation of income to the Federal Government. A forfeiture action is really two transactions. It is the criminal procedure where the property is taken, and then it is the second, which is the sale of real estate.

The way the procedures are being handled, as far as I know to this date, they are being treated as two separate transactions and not being looked at as one transaction. I think that that is a major cause of the expense and delays that the Government is encountering today. The procedure that is presently followed is that a decision is made by an investigative agency to seize property—real property—and an action is commenced following the Federal forfeiture laws.

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[1] See p. 119 for Mr. Brenner's prepared statement.

Federal forfeiture laws are "in rem," dealing with the property, where local real estate laws deal with the ownership of the property, the individuals who actually own it. And there is a difference in the two. The U.S. Attorneys are following the procedures in the Federal laws properly and what is happening is, at the time that the properties become owned by the Government, the real estate aspect of the sale is looked at and then you cannot get title insurance or a second action has to be maintained to comply with State laws.

This has resulted in long delays, duplication of work and deterioration of the property which reduces the value. The real cost to the Government from the procedures followed to date, I do not think are really known. I think they are potentially unlimited because of the in rem nature of the forfeiture action.

Outstanding interests in property are not being extinguished. Real estate is unique. It is not like personal property where ownership is nine-tenths of the law and it moves around. Real property is recorded in public records. Everybody is on notice as to the ownership of property. The ownership is ascertainable and the owners can be contacted rather than the present procedure of a criminal forfeiture, which is an arrest in rem, a summons on real estate.

Real estate is not a recognized legal entity. There are only two types of legal entities—individuals and corporations. By arresting a piece of property, it does not put people on notice, the real owners on notice under State laws.

There is a constitutional question of due process. The Constitution protects the taking of property belonging to individuals without notice and an opportunity to be heard. The Federal forfeiture actions being in rem are not protecting those due process rights and what we have is a situation where the true owners of the property are not being given notice and an opportunity to be heard. That creates a significant problem which can exist for years in the future. The statute of limitations in Florida to clear up outstanding title interests is 30 years under the Record Market Title Act, and 7 years under an adverse possession situation.

An example of this can be seen in a situation which involved a piece of property that I handled. These properties are generally held in offshore corporations for the purposes of protecting the criminal activity and the individuals involved in criminal activity. I have with me an affidavit that was signed by an individual in a criminal forfeiture case and was submitted to the court in the forfeiture action.

I would like to point out some things contained in this statement. This person signs this statement giving his address prior to his incarceration, states that he attempted to disguise his ownership in assets. He hired a financial business consultant to create offshore corporations. The piece of property that I was involved in the sale, sold for $405,000 at auction in November, 1986.

The price paid by this individual or the corporation was $176,000, but there were improvements of about $300,000 made to the property, according to the affidavit. The individual states, in his affidavit, under oath, that he created this Cayman Islands Corporation by using his former business advisor for the express purpose of "laundering my illegal drug trafficking profits."

He goes on to state that the name that title was taken in is this corporation. A review of the final judgment in the forfeiture proceeding shows that this corporation, which is a legal entity in law, was never served with notice, was never named in the action, was completely disregarded, based upon this piece of paper, this affidavit.

The question is as to the validity of this affidavit. This person signing an affidavit under oath, admitting to be a felony—a convicted felon—and we accept the word of a convicted felon on the ownership of property when these offshore corporations, as he says in his own affidavit, provides no disclosure as to who the true owner is.

In actuality, these offshore corporations have bearer stock, and while it may be that this individual believes that he owned that corporation, whoever has that stock can go and claim that they are the owner of the shares of that corporation and therefore they are entitled to an interest in that property. It creates a significant problem.

In addition, the final paragraph, he says that he entered into it in connection with his plea bargain. Well, who knows what he was promised in exchange for giving property and maybe he is feeling that the true owner would not come out of the woodwork. He gave this, maybe, in consideration for a lesser sentence or to be put into a minimum security country club type of institution. We do not know that, and the Justice records are secretive, so we do not know.

What this does, then, is create a major problem on this real estate. You cannot get title insurance because anybody who looks—any knowledgeable real estate professional—who looks at the state of title, they see that this offshore corporation owned it, was never given notice, was not even named in the Federal forfeiture action. So what is the value of this piece of property? It is pretty much worthless.

The business associates——

Senator CHILES. Where was this piece of property?

Mr. BRENNER. St. Augustine, Florida.

Senator CHILES. St. Augustine. What kind of property is it and who was supposed to own it?

Mr. BRENNER. It is an industrial site, industrial park called Tomalto Industrial Park, and it was owned by a Cayman Island corporation known as Grove Investments, Ltd. Now, when you contact—and I did, because I am trying to close this piece of property—the Grand Caymans, they will not even tell you when the corporation was incorporated. They will just tell you the current status and that it is a Cayman Island corporation.

Checking further, it is determined that this corporation only has—the people who are authorized to sign for this corporation to convey that property are two other Grand Cayman Island corporations, and checking into those corporations, it is found out that residents of the Cayman Islands are the only people who can sign to transfer title to this property. The person who gave this affidavit is not even named anywhere in the records the Cayman Islands will disclose, and that is one of the reasons that it was set up in this manner.

What happens in the future is that one of two things. The Government—in the situations that I handled I set up the procedure to give insurable title from the Government, because otherwise, the value of property and the future problems are insurmountable. I would rather know now what faces the Government than 5, 10 or 20 years from now.

This has been costing the Government quite a lot of money in delays. Of the 40 properties that I handled, only about 10 or 12 have actually closed. The rest of them have similar situations.

Senator CHILES. Well, when you say this property went at auction for $405,000, that was based on being able to get some kind of title insurance? If a guy paid for it at $405,000, maybe it is his worry. What I am asking is why does the Government have to be concerned if the guy bid and paid $405,000?

Mr. BRENNER. That was my next point. My next point is, what happens 5 years, 6 years from now when this financial adviser or somebody else comes along and says to this Mr. Law-Abiding-Citizen who purchased from the United States Government, that is my property; I want it back; or get off of it.

At that point what happens? Is the Government going to say to the person who paid for it; too bad? Or is the Government going to reimburse this person for his $405,000 plus the improvements he made over the years? That is a question that has to be decided and I think the statement was made that there were over 1,100 of these such properties. Out of 40 of these, 30 have similar types of problems, so out of 1,100 of these, how many of them have a similar problem?

Senator CHILES. Do we have any idea of what kind of title it is then that is conveyed in the forfeiture process? Is that like a warranty deed? Or is it like a quitclaim deed?

Mr. BRENNER. That is my next point. My next point is that the Government has been giving what they call "Marshals" deeds. A Marshals deed is a fancy name for a quitclaim deed. It is only unique to the Federal Government. If anybody else were to transfer title that way, it would be called a quitclaim deed which gives whatever interest that person has, and if you have none, you are giving none. The only problem is, these people who are purchasing are not sophisticated real estate experts.

The Government in every other situation gives disclosures and requires disclosures. The Government protects the people. This is a person, a law abiding citizen, buying from the United States of America by a Marshals deed. What better way, backed by the Federal Government. I am sure he is relying upon the fact that it is the Federal Government, even if he is not getting title insurance, feeling that the Government would not sell him something that has no value unless they told him.

The Government requires warnings on cigarettes, or when you get on an airplane they read a whole list of warnings that the Government requires. The Land Sales Act requires developers of property, that are giving warranty deeds and title insurance, to put a statement on the front page of their disclosure which says, warning, the purchase of real estate is very risky and you may not make any money or you may lose money.

Now, how can the Government require these types of disclosures in instances like that and then tell Mr. Law-Abiding-Citizen, we are exempt from having to disclose what we knew or should have known, that we did not have good title, that the constitutionality of our forfeiture action has never been decided by the United States Supreme Court and may be set aside because of the due process of these people who were involved in criminal activity and who slipped through the cracks or the investigation was not pursued because they were not around.

Those are very real situations. A person who owns property is not obligated to do title searches on his property to see if any liens or claims were filed. I have owned my home for over 11 years and I have not once done a title search on my property and I am in the business and have the access to do it. People just do not do that.

Senator CHILES. The lawyers are always the worst ones, so that is no excuse. [Laughter.]

Mr. BRENNER. Well, I do not think anybody really goes and calls their attorney and says, let me know if anybody filed anything against my property. They expect to be told.

Now, the other situation is that this person comes back 5 or 6 years and says, you know, everybody knew I owned it, this corporation owned it, you should have given me the constitutional protections. And to do so is very simple. It would not increase the length of time that the Government has to maintain the forfeiture action and it would not have to cost the Government any additional money. And that is simply to combine the Federal forfeiture action with the local real estate practice requirements, not only an in rem action, but a quiet title type of action where the actual owners and people of record are given notice, and if these corporations cannot be found and the people who have the interest cannot be found, as long as diligent search and inquiry are made—which is the standard—then the purchaser from the United States Government is protected.

My suggestion is to employ real estate experts, professionals, before the forfeiture action is commenced. The Federal Government says, we do not want to do that because we do not want to take away from the secrecy, we do not want to tip anybody off.

Well, that has to be balanced. Do we want to risk having the Government have to pay back or disclose to all of these citizens who are buying, that they may be buying nothing? Or, do we want to risk, as was the case in this particular property——

Senator CHILES. Well, I can see where there would be a lot of instances where you simply would not have time to do that or could not take the time to do that, if you thought somebody was—the possibility that they could plea or secrete their property or change it if you did that. But it seems like what you are saying would not have to depend on that person being in there immediately before or something, but as long as he was there before you went forward and started going much further after you had seized the property. So that could be done.

Mr. BRENNER. That is correct.

Senator CHILES. Well, that seems to me—I do not think you are ever going to get the Government to say, we are going to bring in private people and consult with them and sit down before we go

out in an operation and seize a piece of property or something. That is just not going to happen.

Mr. BRENNER. Your suggestion is very valid and what should be done is, when a forfeiture action is started, a lis pendens is recorded against the property.

Senator CHILES. Right.

Mr. BRENNER. Then the world is on notice.

Senator CHILES. Right.

Mr. BRENNER. And at that point they can hire——

Senator CHILES. And that is part of the new anti-crime act that we have got, trying to set up this lis pendens that can be put. Do you have any feeling—have you looked at that act as to tell me what your feeling is as to the way that is drafted or anything? You know, we were doing a lot of this at midnight hours and everything else. I would like to know how that looks.

Mr. BRENNER. When I was invited to testify here, I was made aware that these guidelines existed. Being in Florida, I am away from the happenings in Washington and I asked that I be sent a set and I have not gotten one. So I do not know what they say.

Senator CHILES. I see. Well, I would like to hear from you after you have a chance to look at that.

Mr. BRENNER. Okay. But my suggestion is that after the lis pendens is filed, a complete title examination should be made and a title insurance commitment issued by a company that will insure title and set forth exactly what needs to be done. Then the U.S. Attorney can go ahead and follow the commitment and the title insurance company is obligated to insure that title once those requirements have been fulfilled.

That does two things. First of all, when the final judgment of forfeiture is entered and the procedures outlined in the commitment are followed, marketable title will be able to be given by the Government and the Government can then sell something of value. In addition, the selling and marketing of the property could be stressed.

I want to point out, with this same property in St. Augustine, since that property was sold in November of 1986 and has not closed yet, recently I received a letter from the Assistant U.S. Attorney who is handling this case wanting to know why it has not closed and saying that if it was not closed within 60 days, he was going to take over and close it.

Well, I informed him of this constitutional question. His suggest was, give a warranty deed from the Federal Government and that will then protect the individual. Yes, it will, but what does that do? What it does is, if somebody comes back, the Government is going to have to pay out the amount that was paid. The Government has already paid off all of these liens, and maybe only derived $10, $20, $30, or $50,000 from this property, if anything. So the Government is at a huge loss at that point.

Now, what is happening is, here is an Assistant U.S. Attorney committing the Federal Government to a $500,000 obligation. I do not know if they should have that authority, or even if they do. But by saying that one statement, that is what they are doing.

Now, I represent banks and banks, in order to get a loan for $500,000, require a lot of people to review and approve. Here is one

individual saying, just ignore everything and we will take our chances on this affidavit signed by this convicted and confessed felon, that he was the owner of this property.

Now, I do not know, because I was not able to find out from the Government, if they even got back the bearer stock from this individual, which would be the very least to do. At least then they could feel comfortable that the guy owned it. But these U.S. Attorneys are trained in criminal procedure, not real estate law. And there is where the problem lies.

The real estate laws are complex. It is a specialized area. The area of specialization in law exists today. I would not try to even start a Federal forfeiture action. I do not do Federal litigation and I would not even try to because you spread yourself into too many areas and you cannot do a good job in any if you are doing too many.

The suggestion from the Justice Department that they are going to give training to U.S. Attorneys, I do not think is going to work. As was pointed out, these people are overworked. They are not going to find time to go to these seminars. And if they do, you know the old saying, a little bit of knowledge can be a dangerous thing. They are not going to know fully what should be done.

What is the harm in hiring a real estate professional, or an attorney or a title company? The cost can be saved tremendously. In fact, in my proposal, which I will be coming up to, title insurance will not even cost the Government one penny—not even one penny—and this whole procedure could be done and good title can be given. The value probably can be increased many folds.

I have another situation similar to that, a motion and order and final judgment of forfeiture, *United States of America* v. *Raymond C. Vanyo, Sr.* Mr. Vanyo agreed to forfeit over approximately 19 parcels of real estate. I am handling the closing of all of those, and I was involved in the sale at auction. I was not involved in this until 2 weeks before the auction.

No title work had been done. The point which I want to make is that the Justice Department said that title work is being done. There are different types of title work. What they have been getting is what is called an "Owners and Encumbrance" search. All that that does is list the last owner of record and the liens against the property. It does not raise other questions on the property, which are very significant to know and realize and if handled by a professional can be used to create value in the property.

In these situations, the Owners and Encumbrance searches show these offshore corporations. But the U.S. Attorneys are relying upon affidavits from these confessed felons that they own the property, without asking for the stock back, without checking anything further, without serving the corporation.

That is the situation here. Mr. Vanyo only owns two of the properties in his own name, out of 19. We have been unable to close 17 properties because it is in this offshore corporation which again is a Cayman Islands corporation. Fortunately in this situation, this property was also sold in November of 1986, the girlfriend of the confessed felon has agreed to go to the Cayman Islands and get the documents that are needed. And she went and got the documents. The first time they were incorrect. They did not comply with Flori-

da real estate law and they had to be redone. This has resulted in the delay.

If a real estate attorney had been involved from the very beginning, this all could have been avoided, the property could have been sold and closed a long time ago. These people have been sitting 10 months now for these properties. The properties are deteriorating. The properties are vacant.

Senator CHILES. What kind of property?

Mr. BRENNER. Most of them are residential. A few of them are vacant lots, and one was a condominium unit which was owned by Mr. Vanyo in his own name.

Other examples of things that appear against the property that could have been avoided or the Government save money or make money—there is another situation involving Mr. Vanyo. He had a judgment recorded against him in 1973. When a judgment is recorded it becomes a lien against property good for 20 years. The law in Florida was recently changed to limit it to 7 years but in existing judgments it is good for 20 years.

Fourteen of those 20 years have past. The entity that has that judgment appears to be a corporation that no longer exists. Now, what happens in a situation like that from a title point of view is that the money has to be paid to the registry of the court. The court holds the money and gives the satisfaction of that judgment. What is happening in effect is the Government is taking $4,500 in this particular case and paying it to the State because it is unlikely that in the next 5 years that this entity is going to come around and say, that is my judgment, if they have not come around in 14 years.

This all could have been avoided by having a real estate professional involved in the initial forfeiture procedure and the action by listing this judgment creditor, providing that the Government would hold the money and if this person or entity came around, the Government would turn it over with interest stopped as of that date. Then the realities are that the Government probably would have $4,500 more, rather than paying it to the State of Florida.

Not that the State of Florida does not need it or appreciate it, but it is just waste that can be avoided for the purposes of generating the most amount of money from the sale of these seized properties.

There are two possibilities that I see to avoid these unknown and unlimited liabilities to the Government in the future, someone coming back and saying, that is my property, get off, and the Government repaying the law abiding citizen. One is to discontinue the forfeitures altogether as to real estate, which would defeat the purpose of the law.

The second is to do it correctly. And to do it correctly does not require that much. Every situation, the facts that I have raised here are very few compared to what I have seen. I could talk for hours on this situation. I have other documents here on other situations similar to this, and I will touch on a few before I finish.

Senator CHILES. Well, maybe you will not be able to because of our time.

Mr. BRENNER. Well, I do not want to take an over amount——

Senator CHILES. I think you have given us a flavor for what you——

Mr. BRENNER. Let me tell you what I suggest are the steps that should be taken immediately.

First of all, the seizing of property by the forfeiture action alone should be ceased immediately and an action should be commenced to combine in one action the Federal forfeiture and local real estate practices, and that way the delays, once the forfeiture is finished to then undertake the State action, will be avoided.

And in order to do that, you need to employ competent real estate professionals. The Government wants to save money. The Justice Department's speaker made reference to this Lakeland, Florida trailer park and said that there is a potential $600,000 loss and for that reason they are going with sealed bids to avoid commission and minimize costs. I think that is a major mistake. I think that is going to cost the Government more than hiring professional companies that do this type of business.

They did not touch on and maybe do not realize that the way these auction companies work is that if the property does not sell, no commission is paid. So they have no real exposure. They have the benefit of professionals who do this every single day of their life as opposed to on a spot basis.

The second thing is, get complete title searches prior to or immediately after the *lis pendens* is filed. The title search would not cost the Government any money, I had said before, and I will tell you why. When the contract for sale is prepared for the purchase of the property, the purchaser agrees to pay title insurance because it is for his benefit. The title insurance company agrees to give a commitment which says that it will insure the ultimate purchaser for whatever that purchase price is if these things are followed.

Therefore, the Government has the benefit of the experts work at absolutely no cost, and it is paid for by the purchaser who benefits from it and makes the title to the property——

Senator CHILES. You are saying ultimately that original title search would just be part of the title binder, title cost?

Mr. BRENNER. That is correct. The search would be put into a binder which sets forth the requirements and would be followed by the Justice Department in the procedure.

The Government should give a warranty deed or limited warranty deed stressing that the Government is behind the property and that it is backed by the United States Government and is insured by a licensed insurance company. The reason for that is it will increase the value of property.

The value of property is based upon the highest and best price. The Government is responsible, anyway, for whatever happens with that property. If someone comes back and says, you gave me a Marshals deed, no one knows what a Marshals deed is, no one told me that I was not getting anything of value. Maybe legally the Government is not obligated to do anything because the person knew or should have known, although the caveat emptor theory is being eroded and it is an obligation of a seller to notify the buyers of known defects and the fact that outstanding interests were not extinguished, I think is a known defect. So I think that the Govern-

ment is giving warranties of title even if they are giving quitclaim deeds.

Employ professional marketing and promote the properties. You need to create demand. These auctions which I went to—and I brought the brochures from the two auctions—professionally done, created interest in the property. The two we had in November, at the beginning of November, there was standing room only in packed conference rooms—one at the Radisson Mart in Miami——

Senator CHILES. People thought they were going to get a bargain.

Mr. BRENNER. Well, people are coming there for a bargain and people are coming there to see what is happening, as well. But if they are there, they have an interest, they may be wanting to buy. The numbers of people that inspected the property show that a demand was created. By using professionals, they create demand.

Auction Company of America is the company that I was involved in. I had not been involved in the sale of real estate by auction before that time. In fact, my family and my background has been in selling as a real estate broker, one-on-one situations. Well, in order to create a demand—to get the best value of the property you want to create a demand and you want to move the property as fast as possible.

If you list with a real estate broker, then you have to advertise. It is a lengthy process. By using auctions, it creates an interest, brings a lot of people to the property and to the auction and creates a demand. The auctioneers—Jim Gall in this particular case—created interest in the property, when the auction bidding process was going, by telling people the benefit of what they were buying.

I know it is lengthy and I want to make it short but I think these are important points.

The market value of property is based upon supply and demand. When you use a realtor to show one at a time, that demand situation does not exist as much as if there are a 100 people in a packed room looking at one piece of property. People will spend more.

Make financing available. In every single one of these auctions no financing was made available. At auctions of FHA, VA properties that the Government takes back, they have lenders' representatives pre-qualifying people. If people go there, only can pay by cash, it cuts down the market for the property. Lenders would be happy to go and get business by attending these auctions and qualifying people. People would then be encouraged to bid and bid higher because they know they can get the money and would not lose their deposits.

At these auctions they require a certified check deposit.

Limit the Government cost and expenses. And that is a significant area. There are repeated situations of waste in this area.

Negotiate with lien holders. The Sanibel Motel sold in January, 1987 in Daytona Beach, also handled by Auction Company of America in this brochure. There was quite a demand for people wanting to buy that property. It sold for—the ultimate price was $702,000. There were five mortgages and about 10 or 12 liens against that property which were not known at the time of the sale because no detailed title work was done.

However, the three last mortgagees—the third, fourth and fifth mortgagees—agreed to reduce their mortgages by $85,000. Let me

point out that the Government lost, has given $30,000 to be able to pay off and close this property, out of the Government's money.

The three last mortgage holders—the third, fourth and fifth—gave up approximately $85,000 in order to have the property sold and not be stuck with the property. The Government did not get one penny of that. Some enterprising individual went to these mortgage holders and said, I will take an option to buy your mortgages. When they knew that the Government was going to pay full value, paid these people $85,000 less. The Government paid the enterprising individual full value. The mortgage holders got $85,000 less. The Government could have benefited had they had competent real estate professionals involved.

Lenders will generally——

Senator CHILES. My time is such that I am going to have to—I have got other witnesses to get on, so I am going to have to ask you to just draw to a close now.

Mr. BRENNER. Okay. Let me just——

Senator CHILES. If you have other things, we will submit them for the record.

Mr. BRENNER. Real estate taxes. The U.S. Government is exempt from Federal taxation, yet when we closed a $3,090,000 piece of property, the Government paid $48,000 in real estate taxes to the State of Florida. It did not have to be paid. They do not have real estate professionals.

In order to make the most of the property, close quickly, use interlocutory orders to sell. Vigorously pursue the forfeiture actions combined with the State action. Create and use standard sales contracts that pass the cost on to the purchasers, like hazard insurance.

My contract—and I brought them with me—provides that the buyer will maintain insurance from the day of the sale. The Government is not insuring these properties. If they burn, what do we have? The Government has to lose all of the money that they are putting into the properties.

Title insurance, pass on. Recording fees, pass on. Sales commission—these commissions do not cost the Government any money if done right. There is a buyer's premium with auctions. The buyer pays the real estate commission. So the sale of this Lakeland property by the Government, they are not going to save money and they are not going to do it right. They are going to lose money.

If my procedures are followed, I think the Government can make substantial monies, or at least not lose money from the sale of these properties. If, after going ahead and taking the properties back, like this Lakeland property, it is determined that there is a shortfall that cannot be covered in any way, and there are a zillion ways of covering these shortfalls, by getting people to give here and there, the Government does not have to close on the property. The Government can give it to the last mortgage holder of record and save that mortgage holder from going through a foreclosure action, the cost of foreclosure, and serve the purpose of the forfeiture action, to deprive the criminal of the property which were the fruits of his illegal activity.

If you would like to ask me any questions——

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Senator CHILES. I think that I have asked you questions as we have gone along and I think you have covered an awful lot for us.

We thank you for your testimony. I think it is very interesting. Obviously, from your time and experience you have had time to think about this. I think it might be very helpful if you would sort of reduce into a short concise list those steps of savings that could be done.

Mr. BRENNER. It is contained on the last page of my printed statement.

Senator CHILES. Good.

Mr. BRENNER. It is seven or eight items.

Senator CHILES. Great.

Mr. BRENNER. But it is very short in nature.

Senator CHILES. Good. Well, we would like to see what the Marshals Service and the Justice Department thinks about trying to take those steps. It is obvious from what you say, you have raised where a number of losses have occurred to the Government and a lot of ways that those losses could be very, very minimized. And I agree with you that I do not think you are going to get U.S. Attorneys to do all of these steps. I do not think they have the time and they do not have the training.

I do not know that in every instance you can take all of these steps. That is, again, going to depend on the piece of property and something to do with that. But certainly, what we are trying to do is to get some better procedures set up that are followed and I think your suggestions will be very helpful.

We thank you for taking your time to be here.

Mr. BRENNER. I think that the Government should consider employing professionals and not take the attitude that only U.S. Attorneys can represent the U.S. Government. They would help quite a bit.

Senator CHILES. Well, that may be one in which they are sort of driven to now under the way the law is set up with the regulations, and we may have to have some help in doing that.

Mr. BRENNER. I look forward to reading those new regulations, and thank you for the opportunity to be here today.

Senator CHILES. Thank you very much for coming.

Now we will hear from Mr. William Riley, Comptroller, U.S. Customs Service, and he will be our wrap-up witness.

Do you want to introduce the people that you have with you, Mr. Riley?

TESTIMONY OF WILLIAM F. RILEY, COMPTROLLER, U.S. CUSTOMS SERVICE, U.S. DEPARTMENT OF THE TREASURY, ACCOMPANIED BY KAREN ROBB, OFFICE OF LOGISTICS MANAGEMENT, AND WAYNE HAMILTON, OFFICE OF FINANCIAL MANAGEMENT

Mr. RILEY. Yes, Mr. Chairman. This is Karen Robb, who is head of the Office of Logistics Management, and Wayne Hamilton, who is in the Office of Financial Management.

Senator CHILES. Your statement in full will be included in the record [1] and we will let you brief that for us in any way you can.

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[1] See p. 126.

Mr. RILEY. Thank you. Mr. Chairman, I am pleased to have the opportunity to appear before this Committee to describe the progress that we have made in developing and implementing an effective seized cash and property management system.

The issue of effective management of currency and other assets is important because each year the Customs Service seizes millions of dollars in cash, monetary instruments, conveyances and other assets. We are aware, of course, that seizures of this magnitude bring with them a responsibility to ensure proper control in management while minimizing the time in converting these seizures to governmental funds.

As the previous hearings and GAO reviews have highlighted, the significant issues related to the overall system reflect physical control of the seizure itself, resolution of the legal evidentiary requirements for seized cash, inventory and accounting of seized currency and other assets, and cash management national policy and related procedures.

The system currently in place is designed to effectively process the growing number and dollar amount of these seizures, including currency, monetary instruments and other assets generated by our successful enforcement program. The number and quality of the seizures has been increasing. For currency seizures alone, Customs in fiscal year 1984 seized $67.7 million. By 1986 that figure had reached $121.5 million, and we expect a comparable total in fiscal 1987.

To control and assure the security of these currency seizures, Customs has developed and is in the process of fully implementing a computerized tracking system. The Customs Service is continually striving to improve their procedures and policies for managing these seizures. In light of the growing volume of seizures and GAO and Committee recommendations, Customs has undertaken on a priority basis the implementation of strengthened measures for managing, reporting and physically controlling all types of seizures, including currency and monetary instrument seizures.

We are pleased to report that GAO and Committee recommendations have been incorporated in our updated system. We have taken the following management actions. A national policy and an inventory system for seized cash was established on July 9, 1987. The automated inventory tracking ensures accurate statistics on seized cash and monetary instruments.

A suspense account has been established so that all deposits of non-evidentiary seized cash and monetary instruments can be immediately identified, controlled and deposited. Specific deadlines have been established for the processing and transferring of cash and monetary instruments.

Basically, as recommended, the system establishes a national policy oversight and inventory of all seizures. A deposit fund has been established for the prompt processing of cash seizures. Periodic reassessments and audits are now included in the overall Customs system.

Also, we believe that identified accounting weaknesses have been corrected. With regard to the Forfeiture Fund, we are in basic agreement with GAO on required reports and intend to provide them to the extent possible.

Finally, I would like to report to the Committee on our asset transfers to State and local law enforcement agencies. As you know, this is a top priority of the Commissioner. The recent success and accomplishments of our drug enforcement programs could not have been achieved without the full support of the State and local enforcement agencies.

Therefore, the $8.4 million transferred to the agencies through July of 1987 is money very well spent. We are currently in the process of transferring an additional $4 million for a total of over $12 million. In addition to currency transferred, the assets include 24 vessels, 85 vehicles, and 19 aircraft.

We wish to acknowledge the assistance of the GAO in highlighting potential improvements in our cash management system. Today our in-place, national controlled and operational system meets the standards of good fiscal management.

This concludes my statement, Mr. Chairman. We will be glad to answer any questions you have.

Senator CHILES. Thank you, sir. I, again, at the outset want to compliment Customs for the fact that you have transferred this $8.4 million. I hope that you can speedily transfer the additional $4 million. That is tremendously helpful to our law enforcement people.

I also want to say that I am delighted to see that you have an interest-bearing fund.

Mr. RILEY. We thought you would like that one.

Senator CHILES. The last time Customs was before us we did not have an interest-bearing fund and that gave this Senator great problems, and I am delighted that Customs now has that, as well as Justice.

GAO has testified that the Customs' process of netting out expenses does not meet the Comptroller General's standards. Can you describe the netting practice of recording and accounting your forfeit funds operation, how that works?

Mr. RILEY. If I could, I would like Mr. Hamilton to answer that.

Senator CHILES. All right.

Mr. HAMILTON. Mr. Chairman, I think to some degree our practice of netting stems from the processes that were begun with the Tariff Act of 1930. But we have the practice of netting our costs against the proceeds of sale and depositing the net increase, any gain from those sales, into the Forfeiture Fund. Any losses that we sustain in the process of this are——

Senator CHILES. Well, to Mr. Riley, or to you, Mr. Hamilton, if Congress had not imposed a spending limitation, do you think Customs would have adopted a more efficient and accurate method of reporting the accounting of the Fund's operation? It is kind of hard to argue with the facts.

Mr. HAMILTON. It may be hard to argue with that, yes.

Senator CHILES. It is kind of hard to argue with the fact of GAO saying, this is not, you know, from general accounting practices, the most accurate way of trying to be able to account for these funds, if you net.

Mr. HAMILTON. A fund on the nature of some revolving fund of that type where you are depositing all of your receipts and deducting your costs and making your disbursements would be a lot

easier than working with the several difference Funds that we have to work with at this time.

Senator CHILES. Well, you all reported $7,942 in salaries and fringe benefits in 1985 as charged against the Fund and your own auditors said that figure should be around $1 million a year. How do we explain that kind of difference?

Mr. HAMILTON. I am not familiar with the numbers so I do not know how to explain them.

Senator CHILES. Can you tell me why you did not transfer $27 million in surplus funds to the Treasury General Fund at the end of fiscal year 1986?

Mr. RILEY. There was some confusion, Senator, on how the Fund was to be structured. At one point we had duplicate legislation. We were advised by our own counsel to not make the transfer until that issue had been resolved. As soon as that was resolved, the transfer was done.

Senator CHILES. Well, I hope that we can get something done in regard to this expense limitation—which I think is very unreasonable—that Congress has set for you, and then I would hope you all would have a more accurate way of displaying your funds, other than the net asset method, because I think that does not lend itself.

We will adjourn the hearing. The record will remain open for 2 weeks for any additional statements, and I thank you all again for your appearance.

[Whereupon, at 11:45 a.m., the Subcommittee adjourned subject to the call of the Chair.]

APPENDIX

United States General Accounting Office

GAO Testimony

For Release
on Delivery
Expected at
9:30 a.m.
Friday
September 25, 1987

Asset Forfeiture Funds: Changes Needed to Enhance Congressional Oversight

Statement of
Gene L. Dodaro, Associate Director,
General Government Division

Before the
Subcommittee on Federal Spending,
Budget and Accounting, U.S. Senate

GAO/T-GGD-87-27

Mr. Chairman and Members of the Subcommittee:

We appreciate the opportunity today to discuss our review of Forfeiture Funds operated by the Department of Justice and the U.S. Customs Service, which was undertaken at the Chairman's request. You expressed concern about the control over fund expenditures in view of the internal control and management problems we had identified in the agencies' management of seized and forfeited cash.

On March 13, 1987, in testimony before this Subcommittee, we identified deficiencies which resulted in millions of dollars not being deposited promptly into designated U.S. Treasury accounts. Since then, the agencies have taken actions to correct these deficiencies, and we have included a brief description of the corrective actions for the Subcommittee's information in Appendix I to this statement.

OBJECTIVE, SCOPE AND METHODOLOGY

Our objective in examining the operation of the Forfeiture Funds was to obtain an understanding of how receipts and expenses are accounted for. We reviewed available information on Justice and Customs Fund expenditures and interviewed agency officials. As agreed to by the Subcommittee, we did not make detailed examinations of Fund transactions or verify the reasonableness of Fund expenditures so that we could present our observations at this time.

We conducted our work primarily at Customs and U.S. Marshals Service headquarters and the Department of Justice in Washington, D.C. We also visited Customs, U.S. Marshals Service, Drug Enforcement Administration, and Federal Bureau of Investigation field offices in southern California. We did our work from April 1987 to September 1987, in accordance with generally accepted government auditing standards.

SUMMARY RESULTS

In the Justice Fund, rapidly increasing revenues are accumulating to be spent with little congressional oversight. Unlike Customs, which must transfer surplus funds at year-end to the U.S. Treasury, all year-end funds remain in Justice's Fund to be used at the Department's discretion in the upcoming years. Despite significant increases in expenditures, the amount of funds in Justice's Fund continues to grow and, as of August 31, 1987, there was an $88 million balance in the Fund. This contrasts with the $5 million balance which Justice was allowed to retain at the end of fiscal year 1986.

With respect to Customs, three specific areas must be improved if adequate control and oversight is to be exercised over Customs' asset seizure and forfeiture program. First, congressionally-imposed spending limitations have prevented Customs from recording, as Justice does, all receipts and expenses into its Fund because the limits have been substantially

lower than needed to properly manage Customs' seized assets. To comply with the established limits, Customs uses an administratively cumbersome procedure of offsetting an asset's expenses against its sales proceeds before recording and depositing the balance into the Fund. However, Customs' "netting" practice does not provide a thorough record of the Fund's operations or comply with the Comptroller General's accounting and reporting standards[1], as required by the Federal Managers' Financial Integrity Act. Second, Customs' reports to Congress need to be improved; the fiscal year 1985 and 1986 reports were incomplete. Third, substantive improvements are needed in Customs' accounting system to improve the reliability of the receipts and expenses being charged against the Fund.

Today, I would first like to provide some background on the Funds, and then discuss the detailed results of our review.

FORFEITURE FUNDS ESTABLISHED IN 1984

Forfeiture law allows the government to take property that has been illegally used or acquired without paying the owner. Before 1984, expenses related to the seizure and forfeiture of property were paid out of general salaries and expense appropriations. Numerous problems were identified with the

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[1]GAO Policy and Procedures Manual For Guidance of Federal Agencies, Title 2 - Accounting and Other Related Comptroller General's Requirements.

Customs' and Justice's management of seized and forfeited assets, however, that were due, in large part, to insufficient funds under this arrangement. Consequently, the Customs and Justice Funds were established to finance the management and disposal of seized and forfeited assets.

The Comprehensive Crime Control Act of 1984 (P.L. 98-473) established a Justice Assets Forfeiture Fund and a Customs Forfeiture Fund. The Trade and Tariff Act of 1984 (P.L. 98-573) also created a Customs Fund and Customs chose to operate its Fund under the provisions of the Trade and Tariff Act.

Confusing legislation enacted in 1986 repealed both of the Customs Funds established by the two 1984 acts. On the advice of its Acting Chief Counsel, Customs continued to operate its Fund in the belief that Congress intended for one Customs Fund to exist. This situation was clarified on July 11, 1987, when Customs' supplemental appropriation re-established the Customs Fund authorized by the Trade and Tariff Act. Appendix II describes the sequence of events which led to the current situation.

The Funds began operations in fiscal year 1985 but their durations differ. Justice's Fund is currently authorized through 1988 and the Customs Fund through 1991.

From inception of the Funds through June 30, 1987, Justice and Customs had deposited a combined total of $347.5 million into their funds and spent $112.8 million. The Justice Fund accounts for 73 percent of these deposits and 85 percent of the expenditures. Justice seizes more assets and also records all receipts and expenses into its Fund whereas Customs records only net receipts and net expenses into its Fund. Tables 1 and 2 show the Fund revenues and expenses for the agencies through June 30, 1987.

TABLE 1

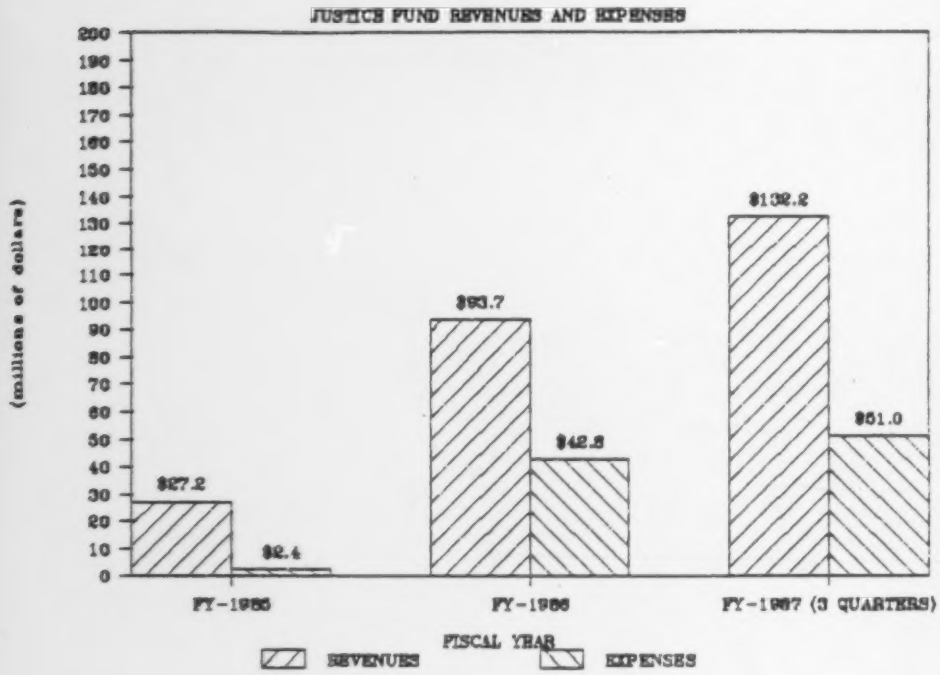
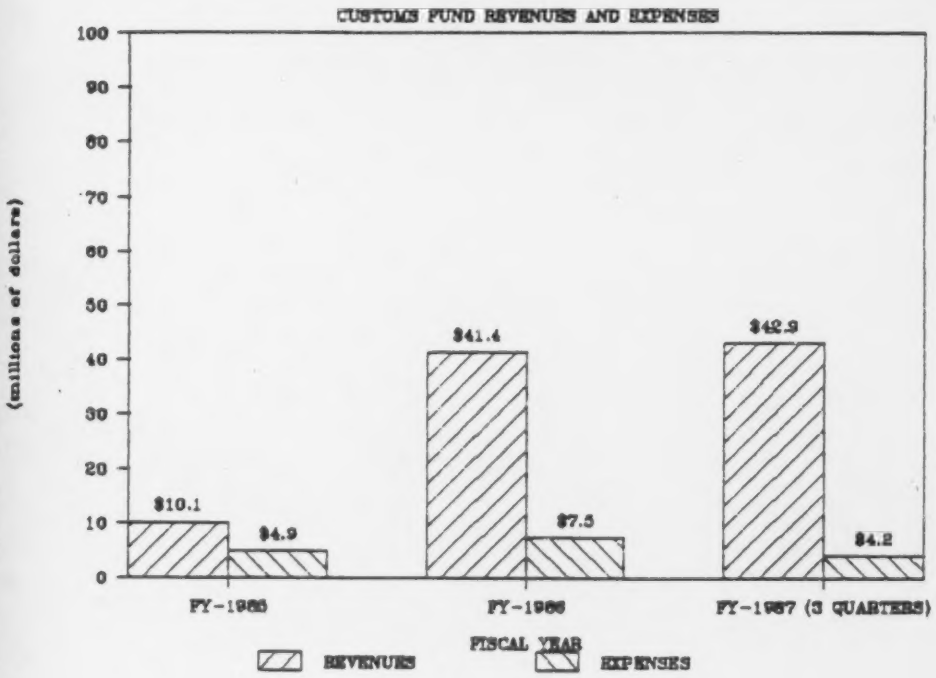

JUSTICE FUND REVENUES AND EXPENSES
(millions of dollars)
200
190
180
170
160
150
140
130
120
110
100
90
80
70
60
50
40
30
20
10
0
$27.2
$2.4
$93.7
$42.8
$132.2
$51.0
FY-1985
FY-1986
FY-1987 (3 QUARTERS)
FISCAL YEAR
REVENUES
EXPENSES

TABLE 2


CUSTOMS FUND REVENUES AND EXPENSES
(millions of dollars)
100
90
80
70
60
50
40
30
20
10
0
$10.1
$4.9
$41.4
$7.5
$42.9
$4.2
FY-1985
FY-1986
FY-1987 (3 QUARTERS)
FISCAL YEAR
REVENUES
EXPENSES

Legislation in effect before fiscal year 1987 required Justice and Customs to transfer any funds in excess of $5 million and $10 million respectively, at year-end to the Treasury General Fund. For fiscal years 1985 and 1986, Justice transferred $19.8 million, and $50.9 million, respectively, to the Treasury General Fund. Customs transferred no funds for fiscal year 1985 and $27.9 million following fiscal year 1986. The Anti-Drug Abuse Act of 1986 (P.L. 99-570) eliminated the transfer requirement from the Justice Fund.

Essentially, the acts authorize the Justice and Customs Funds to finance the same type of expenses, such as those related to the care, custody, and disposal of seized and forfeited assets, payments of liens and mortgages, and purchases of evidence or awards for information which are related to asset seizure. There are, however, certain differences. The act authorizes Justice to use its Fund to pay for leasing or buying computer equipment for use in administering the asset seizure and forfeiture program and to contract for seizure processing and accounting services whereas the legislation for the Customs Fund does not specifically identify such uses. Although not specifically identified in its act, Customs has determined that it can use its Fund to pay for salaries and fringe benefits of certain personnel such as Inspectors, Cashiers and Property Custodians that are involved in processing the sale of forfeited property. Attorney General guidelines prohibit Justice personnel

from recovering such costs from the Justice Fund. Expenses authorized under both Funds are shown in Appendix III.

Both Justice and Customs are required to provide a detailed report to Congress annually on the status of their Funds.

SUBSTANTIAL REVENUES ACCUMULATING IN JUSTICE'S FUND

The elimination of the requirement to transfer surplus funds out of Justice's Forfeiture Fund will result in a substantially increasing balance in Justice's Fund. Justice is now allowed to keep the entire year-end balance which, as of August 31, 1987, was $88 million as compared to the $5 million it was previously allowed to carryover to the next year. Justice's spending authority is limited only by Fund receipts.

In fiscal year 1986, Justice's spending was limited to $10 million for program-related expenses such as purchase of evidence, payment of awards, and payments to equip forfeited conveyances retained for law enforcement use. Appropriated funds were also used to finance program-related expenses. There were no limitations on expenses incurred in seizing, storing, maintaining and disposing of seized and forfeited assets (called management expenses), payments to lienholders, and amounts shared with state and local law enforcement agencies that had participated in the investigation and seizure of the assets

(called contingent expenses). Justice's continuing appropriation for 1987 removed the $10 million limitation (P.L. 99-591).

The Anti-Drug Abuse Act of 1986 removed the requirement to transfer any funds in excess of $5 million to the Treasury General Fund. Subsequently, Justice budgeted $44.5 million of Fund revenues for program-related expenses in fiscal year 1987. For example, Justice authorized $18.9 million in fiscal year 1987 for equipping forfeited conveyances retained for official use, as compared to $110,725 of Fund revenues spent for that purpose in 1986. Officials from the Federal Bureau of Investigation and the Drug Enforcement Administration told us that the Fund was being used to make up for appropriation shortfalls in some of their program-related operations. The following table contrasts the fiscal year 1987 budget with fiscal year 1986 expenses.

Table 3

Justice Assets Forfeiture Fund

FY 1987 Budget vs FY 1986 Actual

	FY 1987 Budget	FY 1986 Actual
ASSET SPECIFIC EXPENSES		
Asset Management/Disposal	$30,326,000	$12,741,028
Contingent Liabilities (including asset sharing with state/local agencies)	51,800,000	21,819,288
Evidence Destruction/Storage	3,000,000	-
Travel/Case Related Expenses	1,000,000	-
Contracting Out	730,000	-
Total Asset Specific	$86,856,000	$34,560,316
PROGRAM-RELATED EXPENSES		
Automated Data Processing	5,134,000	-
Awards for Evidence/Assistance	8,350,000	25,000
Evidence Purchase	11,000,000	8,135,498
Retrofitting	18,945,000	110,725
Training (+ Printing)	1,065,000	-
Total Program Related:	$44,494,000	$ 8,271,223
Total Expenses	$131,350,000	$42,831,539

The Justice Fund's year-end balance has also been increasing each fiscal year, from $24.8 million in 1985 to $55.9 million in 1986. Because Justice was allowed to retain $5 million in the Fund as a beginning balance for the upcoming year's operations, Justice transferred $19.8 million and $50.9 million to Treasury for fiscal years 1985 and 1986, respectively. However, with the elimination of the fund transfer requirement, Justice can carry forward to fiscal year 1988 the entire year-end balance.

As of August 31, 1987, the Fund balance totaled $88 million, and millions of additional dollars are awaiting transfer to the Fund once forfeiture action is complete. For example, the Seized Assets Deposit Account, used by Justice to hold cash that is pending forfeiture, contained approximately $122.6 million as of June 30, 1987. Upon forfeiture, such funds will be available, along with the 1987 Fund carryover, to be spent on the various authorized law enforcement activities with little congressional oversight of such expenditures.

We discussed the increasing Fund balance with the Deputy Associate Attorney General. He agreed that there is no need for Justice to carryover large sums of money from year to year. He noted that enough funds to cover Fund expenditures for at least one month would be sufficient as a beginning balance. He further agreed that even though the fund transfer requirement has been eliminated, one option worth consideration is for Justice to

transfer some of the fiscal year 1987 ending balance to the Treasury. He said another option is to request a legislative change authorizing expenditures for prison construction.

The Deputy Associate Attorney General also said that Justice does not need more than $50 million per year for the authorized program-related expenses. He agreed that either Congress should be notified when such an amount is exceeded or a $50 million limitation set by the Congress would be reasonable.

CUSTOMS FUND CARRYOVER
MAY BE TOO HIGH

The amount of funds Customs is allowed to carryover to fiscal year 1988 and thereafter appears to be unnecessarily high. Customs is authorized to carryover $20 million in fiscal years 1988 through 1991. These amounts approximate the gross expenses for an entire year. A carryover of $5 million would appear to be sufficient as a beginning balance because the millions of dollars being deposited into the Customs Fund throughout the year are available to pay all anticipated expenses.

For example, Customs Fund "net" receipts totaled $41.4 million in fiscal year 1986 and $42.9 million through June 30, 1987. Reducing the carryover to $5 million would result in Customs transferring an additional $13 million to Treasury at the end of this year above what will be transferred and an additional

$15 million each year through 1991. We discussed this with Customs officials who agreed that a $5 million carryover would be sufficient.

There are several bills being considered which address the Customs and Justice Fund carryovers. For example, Section 8 of Bill S.789, introduced in the Senate on March 17, 1987, would establish a $10 million carryover for Justice's and Customs' Asset Forfeiture Fund. Any funds in excess of $10 million would be deposited into a newly established Special Forfeiture Fund in the U.S. Treasury. This Special Forfeiture Fund would be available for financing various federal, state, and local drug control activities in such amounts as may be specified in appropriations acts.

JUSTICE'S ACCOUNTING SYSTEM NEEDS TO BE IMPROVED

Justice's systems to account for and manage seized and forfeited assets, are inadequate, and agency efforts are underway to resolve long-standing problems with the systems.

Internal and external audits and evaluations conducted by Justice, GAO, and others in 1982 and 1983, identified the need for department-wide inventory and related information on seized and forfeited property. Again, in March 1986, we reported that the U.S. Marshals Service's national inventory system was

incapable of supporting management's needs. The Marshals are responsible for managing seized assets.

In complying with the Federal Managers' Financial Integrity Act, the Attorney General reported to the President and the Congress on December 31, 1986, that the lack of a complete accounting system for seized and forfeited assets, coupled with program problems, required him to report the Asset Seizure and Forfeiture Program as a material weakness. The Attorney General reported that, although the Marshals Service maintains an automated management system, proper accountability of seized and forfeited property had not been fully established within the Department's accounting system.

As of August 1987, the Marshals Service was evaluating contractor proposals for a system to resolve its management information problems. These problems include slow processing of reported data, poorly defined data elements, and the lack of system linkages with the other Justice agencies involved in the asset seizure program. The Marshals Service anticipates that the new system cannot be fully operational before October 1989.

CUSTOMS' FUND ACCOUNTING AND REPORTING MUST BE IMPROVED TO PROVIDE ADEQUATE BASIS FOR CONGRESSIONAL OVERSIGHT

Customs' accounting practices provide inadequate control over forfeiture program and Fund operations. Also, Customs' annual reports to Congress on the Fund contained insufficient information to provide a reader with a reasonable basis for assessing program performance or determining the Fund's compliance with governing legislation.

The Customs Fund is subject to congressionally-imposed spending limitations. The limitations for fiscal years 1985 and 1986 were $6 million and $7.5 million, respectively. The fiscal year 1987 limitation is $18 million. For fiscal years 1988 through 1991 the authorized limitation is $20 million but the appropriations limitation, when enacted, may be less.

The fiscal year 1985 and 1986 spending limitations had little relevance to the actual expenses needed to properly manage the large volume of assets Customs seizes. Customs estimated that expenses in fiscal year 1986 totaled $17.8 million as compared to the $7.5 million limitation. To comply with the congressionally imposed spending limitations for the Fund, Customs used the following "netting" procedure.

The expenses incurred in managing a seized and forfeited asset are paid out of the Salaries and Expense appropriation. When the asset is disposed of, the asset's sales proceeds are used to reimburse the salaries and expense appropriation account for the incurred expenses. If the asset's sales proceeds exceed its expenses, the gain is deposited into the Customs Forfeiture Fund as a receipt. If the expenses exceed the sales proceeds, money needed to reimburse the salaries and expense appropriation account for the remaining expenses is withdrawn from the Fund. The amount withdrawn is recorded as a net expense.

Customs officials informed us that the netting of receipts and expenses is administratively more cumbersome than recording all receipts and expenses into the Fund. Furthermore, Customs' "netting" practice does not comply with the Federal Managers' Financial Integrity Act of 1982 which requires agencies' financial accounting and reporting to comply with the Comptroller General's Accounting Principles, Standards, and Related Requirements. The requirements specify that related sources of revenues and expenses shall not be netted.

These requirements also specify that, to properly assess program performance and government stewardship of public funds, a full set of financial statements be prepared including statements of (1) Financial Position (Balance Sheet) (2) Operations, (3) Changes in Financial Position, and (4) Reconciliation to Budget

Reports. For example, the Statement of Operations should identify expenses, losses, transfers out, and all significant sources and uses of resources. However, Customs' reporting on Fund operations did not comply with these requirements.

Customs' fiscal year 1985 and 1986 reports to Congress, which were prepared on a netted basis, provide little basis for assessing program performance or compliance with applicable legislation. For example, during our review, we noted that Customs had not transferred $27.6 million in surplus funds to the Treasury General Fund at the end of fiscal year 1986 as required. Customs' failure to make the transfer was not apparent from the 1986 report because neither the Fund's year-end balance nor the amount the law allows to be carried over to the next year were shown. The transfer was not made until June 2, 1987, after we brought the failure to transfer funds to Customs' attention. Customs' invested the surplus funds in U.S. securities for part of the period and earned $301,370 which was also transferred to Treasury.

Customs fiscal year 1985 and 1986 reports to Congress did not identify basic information such as

-- the Fund's beginning balance,
-- sources of receipts (seized cash, conveyances, etc.),
-- liens and mortgages paid and amount of money shared with state and local law enforcement agencies,

-- net amount realized from the year's operations,

-- amount of money legally allowed to be carried over to the next year, and

-- year-end Fund balance.

In addition, only $7,942 in salaries and fringe benefits was reported in fiscal year 1985 as being charged against the Fund or sales proceeds and no salaries expenses were reported in fiscal year 1986. The amount of salaries charged against sales proceeds and/or the Fund is not readily determinable, but Customs' auditors estimated it to be about $1 million per year.

In other examples, Customs' fiscal year 1985 report showed "net" Fund receipts of about $10 million, but Customs' National Finance Center reported to us a figure of approximately $9.3 million for the same year. The fiscal year 1986 report did not mention the amount of forfeited assets shared with state and local law enforcement agencies. Our review showed that approximately $3 million in assets was shared in fiscal year 1986.

Forfeiture Fund receipts and expenses are also of questionable accuracy because Customs' accounting system has numerous, substantive instances of non-conformance with the Comptroller General's Accounting Principles, Standards, and Related Requirements. For example, following its review of the

accounting system for fiscal year 1986, a certified public accounting firm reported that general ledger accounts for seized property are neither adequate nor being currently maintained and that contingent liabilities are not consistently recorded in the general ledger.

Also, District Incurred Cost Worksheets -- the source documents for recording cost data to be charged against seized asset sales proceeds and/or the Fund -- are inaccurate. For example, a firm retained by Customs to evaluate the seized property program, reported on May 23, 1987, that most of the districts were seriously backlogged on submission of the forms and that the Seized Property Division estimated that only 30 to 40 percent of Customs costs are now being recorded. Customs informed us that a new property information management system, currently in the design stage, is scheduled to be implemented in fiscal year 1989.

GAO RECOMMENDATIONS

To assure adequate control and oversight of the increasing millions of dollars in receipts and expenses being realized by Customs' and Justice's asset seizure/forfeiture activities, we recommend that Congress enact the following legislation:

-- re-establish a limit on the amount of funds that can be carried forward from one year to the next in Justice's Fund, preferably in the $10 to $20 million range, and the

requirement to transfer surplus funds in the Fund at year-end to the Treasury General Fund or to some other congressionally acceptable fund such as proposed in Bill S.789;

-- eliminate the annual authorization and appropriation limitations for the Customs Fund and establish a carryover provision, preferably at $5 million; and

-- require an annual financial audit of the Customs and Justice Funds according to generally accepted government auditing standards, including the preparation of a full set of financial statements and report to the Congress consistent with the Comptroller General's requirements.

We also recommend that the Secretary of the Treasury require the Customs Commissioner to:

-- record and report all authorized Fund receipts and expenses consistent with the Comptroller General's Accounting Principles, Standards, and Related Requirements;

-- take actions necessary to bring Customs accounting system into conformance with the Comptroller General's requirements; and

-- report the seized property accounting system weaknesses under the Integrity Act until they are substantially corrected.

CORRECTIVE ACTIONS TAKEN ON SEIZED CASH MANAGEMENT DEFICIENCIES

Since the Subcommittee hearing on March 13, 1987, both Justice and Customs have acted to improve their seized cash management. New policies have been implemented and agency officials are making reviews to ensure that cash is deposited in a timely manner.

In May 1987, Justice implemented a new policy requiring justification and approval for retaining seized cash more than 60 days after seizure. Justice headquarters officials who approve justifications for retaining cash of $10,000 or more advised that only a few retention requests have been approved during the period May 1, 1987 to September 1, 1987. Their discussions with U.S. Attorney offices generally resulted in decisions by those offices to deposit seized cash in designated U.S. Treasury accounts rather than to hold the cash as evidence.

In September 1987, a Drug Enforcement Administration official told us that cash held in vaults and safety deposit boxes is about 10 percent of the total of a year ago. In July 1987, the U.S. Marshals Service reported its analysis of deposits into the Seized Asset Deposit Account concluded that the Justice policy requiring deposit of seized cash was achieving results. The Marshals are continuing to monitor deposits.

On July 9, 1987, Customs issued a directive establishing a national seized cash inventory and reporting policy. The directive assigns responsibilities for seized cash management, creates a national inventory system, and requires prompt deposit of non-evidentiary cash. We believe it is an excellent directive.

Customs' officials also report that a Treasury deposit account is now being used as a repository for cash pending forfeiture. The balance in this account was $10.6 million on September 2, 1987. They further advise that commercial deposit accounts are being closed out and deposited in the recently established Treasury deposit account as we recommended.

During our March 1987 testimony, we made eight recommendations to the agencies to improve seized cash management. The Drug Enforcement Administration has implemented all three recommendations directed to it and Customs has implemented four of the five recommendations directed to it. However, Customs officials informed us that they believed it unnecessary to report seized property weaknesses under the Integrity Act because they are already including their accounting system weaknesses in Customs' Integrity Act report. We believe the seized property weaknesses are significant enough to be specifically identified in the report.

CONFUSING LEGISLATION AFFECTING CUSTOMS FORFEITURE FUND

In 1984, both the House of Representatives and the Senate passed very similar bills designed to improve the forfeitures of cash and disposition of property used to aid in violations of Customs laws. The House sponsored version was inserted in the Trade and Tariff Act of 1984 (P.L. 98-573), while the Senate version was part of the Comprehensive Crime Control Act of 1984 (P.L. 98-473). Both acts established a Customs Forfeiture Fund.

There were some minor differences in the uses of the Funds under both acts and the Trade and Tariff Act had a Fund termination date of September 30, 1987. In an effort to reduce the confusion created by the establishment of two Customs Funds with slightly different requirements, the Congress enacted additional legislation in 1986. Unfortunately, the legislation further confused the situation because both Customs Funds were eliminated. For simplicity, we refer to the Customs Fund which was established by the Comprehensive Crime Control Act as the "A Fund" and the Customs Fund established by the Trade and Tariff Act as the "B Fund".

On October 22, 1986, the Tax Reform Act of 1986 (P.L. 99-514, section 1888(7) repealed the A Fund. Five days later, however,

the Anti-Drug Abuse Act of 1986 (P.L. 99-570) was enacted and it (1) extended the B Fund's termination date from 1987 to 1991 (section 3142) (2) expanded the purposes for which the A Fund could be used (section 1152(b)(1)) and (3) repealed the B Fund (section 1152(b)(2)).

In the belief that Congress intended for at least one Customs Fund to exist, the Customs Service's Acting Chief Counsel advised the Commissioner on November 14, 1986, that the agency should operate on the basis that the B Fund exists, the Fund established by the Trade and Tariff Act of 1984. The situation was clarified in July 1987 when Customs' supplemental appropriations (P.L. 100-71, dated July 11, 1987) repealed section 1152 of the Anti-Drug Abuse Act.

EXPENDITURES AUTHORIZED BY THE LAWS

ASSET FORFEITURE FUNDS

Expenses	Justice	Customs
1. Care, custody, and disposal of seized assets	X	X
2. Contracted services directly related to the care, custody, and disposal of seized assets	X	X
3. Liens and mortgages	X	X
4. Remissions and mitigations	X	X
5. Conveyance modification	X	X
6. Sharing assets with state and local law enforcement agencies	X	X
7. Awards for information	X	X
8. Purchases of evidence	X	X
9. Computer leases or purchases	X	
10. Contracted seizure processing and accounting services	X	
11. Salaries and fringe benefits *	X	X

*While not stated in the laws, they are implicitly authorized.

80-856 0 - 88 - 3

United States General Accounting Office

GAO

Testimony

For Release
on Delivery
Expected at
9:30 a.m. EST
Friday
September 25, 1987

Real Property Seizure And Disposal Program Improvements Needed

Statement of
Gene L. Dodaro, Associate Director
General Government Division

Before the
Subcommittee on Federal Spending,
Budget and Accounting, U.S. Senate

GAO/T-GGD 87-28

Mr. Chairman and Members of the Subcommittee:

We appreciate the opportunity to discuss our review of the Department of Justice's management of seized and forfeited real property. The Subcommittee requested that we examine the program to determine whether the government was receiving as much for the properties as it reasonably could.

Justice reported a real property inventory of 866 properties valued at about $170 million when we began our detailed review in January 1987. We reviewed 110 of these properties, appraised at $59 million, which represented 35 percent of the nationwide value. In addition, we reviewed 47 properties, appraised at $19.7 million, that were sold or otherwise disposed of between October 1984 and May 1987, including 18 of the 110 inventory properties in our sample. The 47 disposals represented 40 percent of the $50 million in properties disposed of nationwide during that time. Our review was conducted primarily in the Marshals Service districts of Miami, Dallas, and Houston. Appendix I contains a detailed description of our review objectives, scope, and methodology.

SUMMARY RESULTS

Justice's policies and procedures make it clear that although the primary objective of real property forfeiture is to economically punish criminals and destroy the economic power of criminal enterprises, the program must employ sound business practices to maximize the economic return to the government and

protect the valid interests of innocent parties. Justice realized a net economic return[1] of $2.1 million on 47 real properties disposed of that we reviewed. However, no net economic return was realized on 26 of the 47 properties. Additionally, these disposals sometimes resulted in innocent mortgage holders incurring losses. Properties with marginal prospects for realizing a net economic return are being unnecessarily processed through lengthy forfeiture and disposition processes because Justice is not properly identifying and considering the defendant's equity in the property. The defendant's equity is the only property interest that is forfeitable to the government.

Justice also experienced substantial problems in selling the real property we reviewed. Properties offered for sale were withdrawn or, if sold, usually the sales were cancelled or significantly delayed before going to settlement. These problems occurred because Justice had not complied with all forfeiture requirements, such as holding a court hearing to resolve the interests others have in the property or because buyers could not obtain the title insurance which financial institutions require before they will finance the buyer's purchase. Title insurance companies were reluctant to insure title on forfeited properties because Justice could not satisfactorily demonstrate that all

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[1]The "profit" made on a property after its expenses have been offset against its sale proceeds.

forfeiture requirements were complied with or because the companies had serious reservations regarding the constitutionality of the forfeiture process.

Finally, the problems identified in our review and statements by some Justice staff indicate that the U.S. Attorneys and Marshals Service may lack enough staff who are sufficiently knowledgeable and experienced in real property law and management to adequately deal with the many complex issues which routinely arise in the transfer of title for forfeited properties. Additionally, (1) the lower priority that real property management has among the U.S. Attorneys and Marshals relative to their law enforcement activities, (2) the Marshals Service's increasing workload, and (3) the lack of accurate management information are factors which contribute to unprofitable and untimely property disposals.

As we will outline later, substantive actions can be taken to improve the real property program's economic effectiveness.

REAL PROPERTY FORFEITURES ARE INCREASING

The Comprehensive Crime Control Act of 1984 (P.L. 98-473) increased federal law enforcement agencies' authority to seize and obtain forfeiture of assets, particularly real estate, that were illegally used or acquired. The act provides that, after

complying with the specified forfeiture requirements, including the disposition of all petitions filed with the relevant federal court, the United States shall have clear title to the forfeited property and may warrant good title to any subsequent purchaser. Since passage of the act, Justice's real property forfeitures have steadily increased. As of June 30, 1987, Justice had 1,073 real properties appraised at $186 million as compared to 209 properties valued at $76 million in October 1984.

Real property seizures are made on the basis of information developed by Justice's Drug Enforcement Administration, Federal Bureau of Investigation and the Organized Crime Drug Enforcement Task Force. Justice's Marshals Service is responsible for managing and disposing forfeited real estate through its 94 districts. Within the Marshals Service, 13 regional National Asset Seizure and Forfeiture Offices provide guidance and technical assistance to the Marshals. U.S. Attorneys in 94 districts decide whether properties are to be seized for forfeiture and they prosecute the cases through the federal courts.

Justice's policies, manuals, and procedures recognize that there are occasions when it will be in the government's law enforcement interest to seize and forfeit real property that will not provide an economic return to the government. Such seizures, however, should be made as a result of a conscious decision after

consideration of the circumstances. The presumption is that seizures of unprofitable real properties will not routinely be made. As specified in Justice's guidance to the U.S. Attorneys, Justice has

> "a responsibility to operate the asset forfeiture program in a way that maximizes the collateral economic return to the government and recognizes the interests of innocent third parties."

Justice's manuals identify numerous actions that must be taken to fulfill the legal requirements of forfeiture and recognize the interests of innocent third parties before property title will be transferred to the government. These include filing an order of forfeiture in a federal court, determining the defendant's equity in the property and liens and interests of innocent third parties, notifying all persons with an interest in the property either personally or through newspaper publication, holding a court hearing to resolve third party interests, and obtaining a court-issued final order of forfeiture.

PROPERTIES WITH MARGINAL ECONOMIC PROSPECTS ARE BEING SEIZED AND FORFEITED

Justice realized a net economic return of $2.1 million on the 47 property disposals we reviewed.[2] Twenty-six of the disposals, however, realized no net returns and incurred losses totaling $83,200. The unprofitable disposals are occurring because Justice is seizing and forfeiting real properties through lengthy forfeiture and disposal processes without adequately identifying and considering how much of the property -- the defendant's equity -- is forfeitable to the government. Also, Justice's criteria for determining whether it would be economically worthwhile to seize and forfeit properties is too low to prevent seizing unprofitable properties.

Most real property disposals were unprofitable

As shown in Table 1, 20 disposals realized a net economic return of $2.1 million. However, 26 of the disposed properties realized no net return or incurred a loss. We could not determine profit or loss for one property because of insufficient file documentation.

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[2]Direct costs, such as those incurred in managing, maintaining, and disposing of real properties are included in our computation of net economic return. Undeterminable personnel costs of U.S. Attorneys, U.S. Marshals and other agency personnel are not included.

Table 1

Real Property Disposals
October 1984 to May 1987

Description	No. Of Properties	Net Return Or <Loss>[3]
Sold at a profit	20	$2,219,900
Sold at a loss	5	<35,000>
Returned to lienholder or defendant	21	<48,200>
Unknown	1	-
Totals	47	$2,136,700

The 20 profitable properties included eight houses with values ranging from $33,500 to $265,000, six businesses with values ranging from $184,000 to $3.5 million, five parcels of land valued from $10,000 to $185,000, and a leasehold interest appraised at $35,000.

The remaining 26 properties either broke even or incurred a loss. A loss of $ 48,200 was sustained on 21 of the properties which were returned to lienholders or defendants because the defendant's equity was insufficient to justify the government's efforts to sell the property. The 21 properties consisted of 19 houses valued between $30,000 and $973,000 and two commercial enterprises valued at $425,000 and $3.5 million. Twenty of these

[3]Direct costs such as those incurred in managing, maintaining, and disposing of real properties are included in our computation of net economic return. Undetermined personnel costs of U.S. Attorneys, U.S. Marshals and other agency personnel are not included.

properties were held in Justice's inventory an average of 12 months ranging from a low of 17 days to a high of 31 months.[4]

Five of the 26 properties were sold at a loss of $35,000. These properties were held in Justice's inventory an average of 17 months, ranging from a low of 5 months to a high of 27 months. The properties included five houses with values ranging from $31,500 to $250,000. Appendix II lists the period of time the properties disposed of spent in Justice's inventory.

Seizures of unprofitable properties create an unnecessary management and administrative burden for U.S. Attorneys and Marshals and detracts from their ability to effectively process profitable properties. Also, because Justice generally recovers its costs before the liens and mortgages are paid, holding properties with marginal prospects for economic return for long periods of time could unnecessarily penalize innocent third parties. Because of incomplete information, we could not determine how many of the unprofitable disposals resulted in mortgage holders incurring losses. We did note two instances where mortgage holders incurred losses of over $117,000.

The extent to which unprofitable disposals will continue is unknown. Justice does not know how much of its real property

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[4]Information was lacking to enable us to determine how long one property was held.

inventory is encumbered by valid liens and mortgages and such information is needed to determine the defendant's equity in the property. For example, of the 83 inventory properties that we reviewed, 63 property files lacked the debt information necessary to identify the defendant's equity. Therefore, neither we nor Justice can estimate how many of the inventory properties have marginal prospects for realizing net economic return upon disposal. Despite the lack of information, we did identify several examples of such marginal properties.

For example, as shown in Appendix III, seven properties are projected to realize a loss of $668,000. The projected loss will likely be greater because the government is required by court order to pay a $3 million mortgage plus accumulating 11 percent interest on one of the properties. Additionally, in August 1987, the Deputy Marshal told us that one of the properties was sold and the lienholder was not paid $100,000 because the sale proceeds were not sufficient to pay all valid liens.

Criteria for determining whether property should be seized is inadequate

Justice's criteria for determining whether it would be economically worthwhile to seize real property is too low to prevent seizure of unprofitable properties. The U.S. Marshals Service manual specifies that the National Asset Seizure and Forfeiture regional office should be requested for guidance before assets with excessive liens or encumbrances are seized. Liens or encumbrances are defined as excessive if they approach, equal, or exceed the appraised value of the property. The U.S. Attorneys' manual states that it may be ill-advised or wasteful to seize and forfeit real property of low monetary value. The guidance does not define low monetary value, however. The Drug Enforcement Administration's guidance states that property of $10,000 or less should not be seized. The Federal Bureau of Investigation specifies that real property with an appraised value less liens of $10,000 or less should not be seized.

The above criteria fails to recognize the lengthy periods of time required to forfeit and dispose of real property. It allows for seizure of property when costs can easily exceed the defendant's equity. This is particularly true as the value of the property increases because the selling commission is a percentage of the sales price. For example, on September 29,

1986, Justice seized farmland in Lakeland, Florida, which was appraised at $575,000 with liens of $531,481. This seizure meets the established criteria because the unencumbered balance totals $43,519. However, the incurrence of a six percent selling commission, which is normal for the industry, would reduce the projected return to about $9,000, even without the incurrence of additional mortgage interest and other management expenses. In August 1987, the Assistant U.S. Attorney handling this case told us that the farmland is being returned to the lienholder because accumulating mortgage interest and anticipated selling expenses will exceed sales proceeds.

Our analysis of real property disposals and discussions with agency officials indicate that more specific criteria is needed to minimize the seizure of unprofitable properties. For example, attorneys in the Criminal Division's Asset Forfeiture Office note that properties with marginal equity, which they characterize as 20 percent or less of the property value, need to be thoroughly reviewed to justify seizure.

JUSTICE IS EXPERIENCING SUBSTANTIAL PROBLEMS IN SELLING REAL PROPERTY

Properties offered for sale that we reviewed were withdrawn or, if sold, the sales were usually cancelled or significantly delayed before going to settlement. These problems occurred because Justice had not complied with all forfeiture requirements

or because buyers could not obtain the title insurance which financial institutions require before they will finance the buyer's purchase.

We analyzed Justice's efforts to sell 46 properties through one auction company in Miami, Florida, during November 1986 and January 1987. The auction company offering represented the largest Justice effort to sell real property nationwide. Twelve properties valued at $6.1 million were subsequently withdrawn from the proposed sale. Because the records were incomplete, we could not determine why each property had been withdrawn; however, at least five properties were withdrawn because court hearings required to resolve third party interests had not been held.

For example, two of the 12 properties appraised at $4 million and $1 million respectively, were withdrawn from the November 1986 sale in October because Justice had not notified third parties with interests in the properties as required. District personnel told us that, as of September 1987, the required hearing had not yet been held for the $4 million property. District personnel could not explain why the hearing had not been held.

In another instance, Justice told the auction company in September 1986 to include three forfeited Florida condominiums

valued at $40,300 each, in the planned November auction. Memoranda and the record of title searches in the case file clearly reveal that the properties were originally titled in both the defendant's and his father's names. Although the government obtained forfeiture of the defendant's interest in August 1984, a required hearing had not been held to resolve other third parties' interest, including the father's. The hearing has now been scheduled for September 1987, more than 39 months after it should have been held.

Neither the regulations nor the U.S. Attorney's manual require that hearings on third parties be held within specified time frames; however, Justice officials in the Criminal Division and the U.S. Attorney's office in Houston stated that within 30 days after forfeiture, steps should be taken to initiate the hearing process by notifying parties with interest in the property of the forfeiture. The U.S. Attorneys' manual specifies that hearings should then be held within 60 days after notification.

Of the 34 properties (valued at $11.4 million) actually offered for sale, all but one had sale offers accepted at the auction. Of the 33 properties for which offers were accepted, only two went to settlement within the 60 days specified by the sales contract; a third property closed within 75 days. As of August 28, 1987, ten sales had been settled, nine had been

cancelled (including three where the properties were returned to the lienholder and six where the deposits were returned at the buyer's request) and 15 were still pending 9 months after the auction.

The problems in finalizing the sales resulted from unresolved questions and issues concerning the government's ability to demonstrate it had good title to the property. For example, 26 of the 30 properties included in the Miami auction lacked title abstracts and opinions which the auction company determined were needed to identify valid interests of third party claimants and resolve other title questions. In other cases, Justice had been made aware of potential problems but had not taken action to resolve the issues. In still other instances, Justice officials did not realize the actions they had taken were inadequate to convey good title. To illustrate:

-- The $195,000 sale on a house in Florida could not be settled because a court hearing had not been held to resolve third party claims against the property. The U.S. Attorney is currently clearing the government's title in the Florida state court.

-- One residence in Miami, Florida, was sold three times before it was disposed. The first sale in October 1984 was cancelled because the property had not yet been

forfeited. The property was resold in June 1985 but the buyer cancelled the sale in May 1986 because Justice could not provide a general warranty deed which conveys clear title to the property. The third sale in November 1986 was not settled until May 4, 1987 when the buyer used private financing and the title was conveyed by a Marshals Deed which conveys whatever interest, if any, the government has in the property. A Marshals Deed is a quit claim deed that conveys title "as is"; the government does not warrant clear title to the property.

-- Another of the properties sold in November 1986 could not go to settlement because the property had been owned by a corporation in the Grand Cayman Islands. The actions taken by Justice to obtain title to the property did not comply with Grand Cayman law for transfer of corporate property. The sale was finally settled in May 1987 under a Marshals Deed and with private financing.

TITLE SEARCHES ARE INADEQUATE

Justice's policies and procedures require agency personnel to make a title search before or immediately after seizure of the property. The title search is intended to determine whether the defendant has a financial interest in the property and any outstanding liens and mortgages. Our review reveals, however, these type searches are often not done or, when done, they do not

adequately identify issues that must be resolved to convey clear title to the government. We also noted instances when the searches identified issues needing resolution but no action was taken.

Our review of 83 properties in the Miami, Dallas, and Houston districts' inventories indicates that title issues have not been resolved for at least 45 of the properties. Also, 26 of the properties did not have any title search in the file. Therefore, Justice does not know whether those properties have title issues which must be resolved before the government has clear title to them. The following examples illustrate the problems which occur when title searches are not done or when title issues are not resolved before selling the property.

-- The sale of a $4.1 million estate had not been settled a year after its sale because the defendant wife's claims to the property had not been resolved before offering the property for sale. While the courts have since resolved that issue in the government's favor, the latest question concerns whether the government can convey the property without the deed restrictions required by the state because it is a registered historical landmark. As of September 21, 1987, the Marshals Service told us that the

buyer will likely cancel the sale because of the state's restrictions.

-- In Texas, a title search done by the seizing agency did not identify the owner of record for a $158,000 residence. The owner had properly recorded her ownership in the property with the applicable county clerk office about 2 years before it was seized. As a result, the property was tied up in the court for about 2 1/2 years resolving the title questions.

-- In Texas, 14.9 acres of land valued at $15,000 was seized and forfeited before the government determined who was the owner of record. According to the firm hired to do the title search, the owner of the property is not the defendant and the government has no defensible claim to the property.

-- Because a title search had not been done when the property was seized, the defendant sister's interest in a $33,500 Texas property was not identified until 5 months after the defendant's interest in the property was ordered forfeited.

-- In Texas, 40 acres of land, appraised at $38,500, were seized. Although official records showed that the defendant's child acquired the property as a gift from her grandparents, the property was forfeited and arrangements made to sell the property without a court hearing to resolve her interest in the property. An attorney for the child instituted legal action and the forfeiture was overturned. A court hearing to resolve her interest in the property was subsequently scheduled for September 1986; almost 4 months after the property had been seized.

Title companies are reluctant to insure forfeited property

Title companies have been reluctant to insure forfeited property because they lacked assurance that Justice had (1) identified all parties with an interest in the properties, (2) notified those parties of the government's intention to forfeit the property, and (3) provided those parties with an opportunity to present their claims against the property. Justice recognizes that these issues are of major concern to the title insurance companies. Therefore, Justice issued more specific procedures for identifying and notifying third party claimants to enable Justice to satisfactorily document that reasonable efforts were made to resolve third party interests. According to a May 1987

memorandum to all U.S. Attorneys, these procedures provide for, among other things,

-- obtaining title abstracts before or immediately after initiation of the forfeiture action;
-- notifying the registered agent as well as any other party that the government has reason to believe is a corporate owner, even if not so designated;
-- obtaining an affidavit outlining efforts made to notify the defendant if he is a fugitive; and
-- writing the order of forfeiture to address all liens and how the proceeds from disposal should be distributed.

We discussed these changes with the American Land Title Association, a Washington, D.C., based group that represents U.S. title companies. According to the Association's counsel, the new procedures represent substantive improvements over Justice's prior practices. However, he believed that they would not substantially increase the insuring of title on forfeited properties. As he and other title company officials explained to us, they have reservations about the constitutionality of real property forfeitures. The officials told us they are concerned that if real property forfeitures are declared unconstitutional, the insured property will (1) become an instant liability that must be paid by the industry, and (2) the government will not reimburse the companies for the claims paid even though the title

companies insured the property on the government's warranting of good title.

Justice Criminal Division officials told us that the title companies' fears are without merit. They have attempted to persuade the companies that the constitutionality issue has no merit through discussions and informing company officials of Justice's forfeiture policies and procedures. However, the title companies' position has not substantially changed as a result of these efforts.

According to the American Land Title Association's counsel, insuring title to forfeited properties has higher risks than insuring title to properties usually insured by title companies -- the normal, every-day sales and purchases of real estate. He said that given the higher risks, and the small number of forfeited property sales annually in comparison to the overall number of properties insured by the title companies each year, it is unlikely that companies will be eager to insure title to forfeited real property. He said that as long as the government is unwilling to guarantee that it will reimburse the companies for any claims arising from deficiencies in the forfeiture process, the title companies will continue to insure forfeited properties on a case-by-case basis when they consider the property to be of low risk.

ADDITIONAL REAL ESTATE EXPERTISE MAY BE NEEDED TO IMPROVE ASSET SEIZURE MANAGEMENT

The problems we identified and statements by some Justice staff indicate that the U.S. Attorneys and Marshals Service may lack enough staff who are sufficiently knowledgeable and experienced in real property law and management to adequately deal with the many complex issues that routinely arise in the transfer of title for forfeited properties. Attorneys and program managers appear to be learning real property management through trial and error experiences. Additionally, the lower priority that real property management has relative to law enforcement activities, the Marshals Service's increasing workload, and the lack of accurate management information are contributing factors to the unprofitable and untimely disposals we identified.

Complexity of real estate issues requires specialized legal assistance

Generally, treatises on real estate law identify issues relating to the transfer of title as the most complex aspect of real estate transactions. They advise that untrained persons should avoid attempting to perfect title-related issues because of the potential for hidden risks involved in the purchase of real property. Although attorneys are required as part of their law school curriculum to take a general course in real property

law, an attorney generally needs to work in the area for some time to become knowledgeable in real property law.

In attempting to resolve some of the seized property title problems, case attorneys often failed to recognize that a title abstract and opinion was needed for many of the properties and tried to sell properties without clearing the title problems. Title abstracts consist of a condensed statement of the key facts in each transfer. Normally, the abstracter express no opinion as to the legal significance of the instruments but simply analyzes them and assures that all time periods are accounted for. In an opinion, the lawyer examines the abstract, interprets the relevant documents and then renders his opinion as to the state of the title.

Our review results indicate U.S. Attorneys often were unaware of the need for specialized legal expertise in processing real estate forfeitures and subsequent real property disposals. Generally, U.S. Attorneys' lack of understanding of title issues resulted in little or no action being taken to correct title problems until the buyers of the forfeited properties attempted and failed to obtain title insurance.

For example, a U.S. Attorney in Miami told us that the attorneys initially forfeited and disposed of real property in the same manner as personal properties. Personal property (cars,

jewelry, furniture) are more easily forfeited than real property because the owners and parties having interest in the property are easier to determine, the requirements for notifying parties of the forfeiture are less stringent, and personal property is usually not considered to be unique whereas real property is.

In another instance, an attorney did not understand the title abstract and opinion which had been contracted for from an experienced real estate law specialist for one residential property. The attorney did not follow the specialist's instructions on clearing the title's deficiencies. Therefore, the title is taking longer to clear because numerous items have to be redone.

In another instance, title insurance companies refused to issue title insurance on a residence in Texas because they concluded that, even after the forfeiture proceedings were completed, the government did not have title to the property. The property, which was appraised at $204,500, was seized in March 1986, and forfeited in June 1987. According to court records, the seizure and forfeiture documents for the property have the incorrect legal description and street address. A NASAF official told us that the Marshals Service is considering (1) instituting proceedings to forfeit the property, or (2) advertising the property at about 75 percent of its fair market value with the understanding that the buyer may have to seek a

warranty deed from the defendant to qualify for title insurance. However, he also said the federal government may not have a claim to the sales proceeds because the defendant's equity has not been forfeited. Thus, the defendant may be entitled to the sale proceeds.

Heavy workload and low priority hamper effective real property management

Within the Marshals Service's district offices that we reviewed, no unit is dedicated full-time to the asset seizure program. While each district has people designated to work on the program, this is only one of the many duties that they perform. For example, Marshals are responsible for providing support and protection to the federal courts, including judges, attorneys and jurors, apprehending most federal fugitives, operating the witness security program, custody and transportation of thousands of federal prisoners annually, serving notices of civil and criminal proceedings on a daily basis, executing arrest warrants, preventing civil disturbances, and restoring order in riot or mob-violence situations.

The Marshal Service's significantly increasing workload is of concern to Justice. In complying with the requirements of the Federal Managers' Financial Integrity Act, the Attorney General

reported to the Congress and the President on December 31, 1986, that

> "Increased levels of activity generated by the Comprehensive Crime Control Act of 1984 have put considerable workload pressure on the USMS [Marshals Service], especially in the areas of the protection of the Judiciary and Federal property, the handling of Federal detainees, and witness security. There is a potential that, if unattended, the workload could impair the fulfillment of significant portions of the USMS' mission."

The Marshal in Miami told us he plans to establish an Asset Seizure Unit but he currently does not have the personnel to do so. He said the unit will eventually consist of six people: a supervisor, two clerks, two full-time deputies, and a position which will be filled on a rotating basis for 6-month periods by a deputy. In Miami, the property managers were Deputy Marshals who had been operating as managers less than a year. They told us their training and expertise in real estate matters was limited. The Marshal stated that while he recognized the importance of the Asset Seizure Program, it has a lower priority than the Marshals Service's primary mission of protecting federal judges and transporting prisoners.

The NASAF offices were established within the Marshals Service to provide technical assistance and guidance to the districts. In Miami and Houston, the people hired to fill the NASAF technical position told us they had contracting,

procurement, or administration backgrounds, but not the broad real property knowledge needed to adequately address the complex real estate issues which arose. Also, an auction company official expressed his opinion that NASAF staff are operating as real estate brokers without obtaining the training or the state license required for private brokers.

In June 1987, the Marshals Service reported difficulties in getting U.S. Attorneys' offices to devote time to civil forfeiture-related matters, such as actions to clear title, and other real property legal matters. The Marshals Service would like authority to contract for legal assistance in these matters. As of September 1987, Department management was considering this request.

BETTER MANAGEMENT DATA WOULD IMPROVE PROGRAM AND PROPERTY MONITORING

Marshals Service management data is inadequate to properly manage or monitor the real property program. Specifically (1) information system data, including inventory data were inaccurate and incomplete; (2) legal documents and other file documentation on the individual properties were missing; and (3) internal controls over properties' expenses and income were inadequate. These inadequacies hamper the making of informed decisions on the management and disposal of seized properties and contribute to

seizing properties with low defendant's equity and delays in disposing of properties.

Information system data inaccurate and incomplete

The district Marshals Service manual requires that an inventory log be maintained, listing each item of property seized. These logs list the type of property seized (real property, cash, conveyance, personal property) the case number, seizure date, appraised value, and disposition. The log is to be kept current.

Likewise, each NASAF regional office maintains a record for every property seized by the district offices within its region. The NASAF regional system is automated and can communicate with NASAF headquarters while the districts' inventory logs are generally manual systems. A few districts, such as Miami, Florida, have automated their inventory logs; however, in such cases the information cannot be transmitted directly from system to system because, at least in Miami's case, the systems are not compatible. NASAF's automated inventory and information system was designed to collect the kinds of information needed for management and oversight of the program, such as (1) the type, volume and value of the property being seized, and (2) the costs of seizures and resources needed to support property seizure efforts.

Our review and reconciliation of the logs in the Miami, Houston, and Dallas districts disclosed that all real property shown on the district's log was not shown on the NASAF log or vice versa and that all real properties on-hand were not shown on either the NASAF or the district's log. Specifically,

-- 16 out of 167 properties on-hand were not listed on either the district's or NASAF's log. District personnel stated that these properties were from cases originating outside the district and, when the program first started in 1984, NASAF had managed these properties. The Deputy Marshal suspected that when the district took over management of the property from NASAF, the out-of-district properties had not been added to the inventory log.

-- Of the remaining 151 real property files, 15 were shown only on NASAF's log and not on the district's log while 14 were shown on the district's log and not on NASAF's. District office personnel stated that they do not receive copies of the NASAF log on a regular basis, therefore, they do not know whether the information can be reconciled.

The NASAF manual requires the district to submit numerous documents for each seizure to NASAF. The documents, which are used in entering data into NASAF's automated system, essentially

include all documents except expense and income vouchers. Specifically, the documents are:

-- Marshals Service Process Receipt and Return (Notice);

-- Complaint for forfeiture;

-- Arrest warrant for property;

-- Seized Property and Evidence Control Record; and

-- All associated orders.

This creates a very paper-intensive system and results in duplicate files. In Miami, the information is entered into the district's system and entered a second time into NASAF's system. The NASAF clerk in Miami estimated that 75 percent of his time is spent entering data on the NASAF system and maintaining the resultant files. We believe the value of such a duplicate system is questionable when (1) higher priority tasks such as obtaining title searches or identifying the amount of defendant's equity are not being done; (2) the information in the system is inaccurate; and (3) the NASAF information is not shared with the districts managing the property to reconcile any discrepancies. As of August 1987, the Marshals Service was evaluating contractor proposals for a system to resolve its management infromation problems. We believe consideration should be given to procuring computer terminals that will allow communication among the districts and the regions so data can be inputted once and the paper flow among the districts and the regions can be reduced.

We also noted that the inventory log in Miami was maintained in a 3-ring binder with a separate sheet for each property. The sheets were not numbered sequentially. Therefore, without a complete reconciliation of the files on hand or checking the computer data base, it was not possible to tell if all property was accounted for. While the attempt made by Miami to computerize their inventory is laudable, we believe steps should be taken to assure inventory sheets account for all property.

Neither the regional nor district systems produce aggregate or summary data. Therefore, local personnel were not able to identify the numbers and value of real property on-hand. They also could not identify the number of seized properties that had been disposed. Without such aggregate information, it is difficult for the regions or districts to assess program performance. We obtained the information for our analyses by counting the number of properties recorded individually in the district inventory log, adding the values shown in the log for the properties, and identifying properties that had been disposed of by studying the annotations in the log.

File documentation is incomplete

Our review also disclosed that all files reviewed were missing important legal or other documents necessary to adequately manage the property. Specifically, 5 files did not have appraisals; 26 did not have title searches; 75 did not have

the notice of seizure and forfeiture; 63 were missing information on current debts; and 31 had no indication that a lis pendens[5] had been filed; and none contained a running record showing the status of the property. Oral communications with attorneys, realtors, management firms, third party owners, and others, which significantly affect the management of the property were not recorded in the file. The missing documentation occurs because (1) there is no system for assuring that the Marshals Service receives all seized property documents from the clerk of the courts, (2) the Marshals heavy workload makes it difficult to keep the files up-to-date, and (3) the use of loose-leaf files contributes to the disorganization of files and loss of documents.

We also noted instances when the payment of expenses and collecting of income were not in compliance with Marshal Service requirements. Expenses of properties pending forfeiture are to be paid from the Asset Forfeiture Fund whereas income from such properties are to be deposited into the Seized Asset Deposit Account -- a holding account which is used until all property litigation is completed. District office personnel are required to fully account for all payments and income by recording them on

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[5] A lis pendens is a notice filed to warn all persons that the title to the property is in litigation.

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the case file folder cover. Also, invoices, vouchers, and all necessary documentation are to be filed in the folder. We noted the following instances when these requirements were not complied with.

-- In Florida, the defendant's wife was receiving $1,000 per month from persons who were renting space in an airplane hangar which had been seized by the government. This income should have been collected by the Marshals Service but they had not done so. We brought the non-collection of rental income to the Deputy Marshal's attention in February 1987 who informed us that it had been an oversight. However, as of July 1987, the Marshals had not collected any rental income which we estimated to be $14,000.

-- Association dues plus interest of $15,511 had not been paid by the Marshals Service on a Miami, Florida, property for 38 months. The homeowner association threatened to sue the Marshals Service before they were finally paid.

-- In Miami, Florida, the Marshals Service was allowing a firm which was managing six properties to net monthly rental income against monthly expenses for items such as pool and lawn maintenance. As a result, the income was

not deposited into the holding account nor were expenses paid out of the Asset Forfeiture Fund as required. About $111,600 of monthly income and expenses was involved. Also, the Marshals Service's accountant did not review the management firms' income and expense reports on these properties because he did not have to issue any checks to reimburse them for expenses incurred. The accountant stated that he did not have time to write separate checks for the expenses on each property; therefore, he believed that netting the expenses and income was appropriate even though they involved different Fund accounts. The "netting" of receipts and expenses does not provide a complete or adequate record of financial transactions nor does it comply with the Comptroller General's accounting and reporting standards[6], as required by the Federal Managers' Financial Integrity Act.

Marshals Service's inspection reports identify internal control weaknesses

Marshals Service inspection reports issued during the 3-year period ending July 1987 identified numerous internal control weaknesses in the districts accounting for and managing seized assets. We reviewed all reports that were issued during the period covering 45 of the 94 Districts. The following table

[6]GAO Policy and Procedures Manual For Guidance of Federal Agencies, Title 2 - Accounting and Other Related Comptroller General's Requirements.

summarizes the type and frequency of control weaknesses and deficiencies reported.

TABLE 3

SEIZED PROPERTY INSPECTION FINDINGS
FOR THE PERIOD JULY 1984 THROUGH JULY 1987

INTERNAL CONTROL WEAKNESSES	NUMBER OF DISTRICTS	PERCENTAGE OF DISTRICTS WITH WEAKNESSES
Inaccurate/Incomplete Inventory	19	42
Inaccurate/Incomplete Case Files	25	56
Inaccurate Property Cost Records	5	11
Inadequate Property Security	9	20
Inefficient/Ineffective Disposal of Seized Property	12	27
Improper Retention of Seized Property By Federal Agencies	5	11
Other	7	16

The following examples illustrate several of these weaknesses

-- Inaccurate/Incomplete Inventory

A July 22, 1987, report revealed that the Seized Property and Evidence Register had 625 open cases when only 393 cases were actually open.

-- Inaccurate/Incomplete Case Files

A June 1, 1987, report stated that, because of the lack

of file information, a determination could not be made that property disbursements were authorized and legal, services were procured at a reasonable price and that all services paid for were received.

-- Inaccurate Property Cost Records

An October 29, 1986, report stated that a review of seized property files revealed that all expenses were not being recorded in the individual case folders. As a result, the Marshals Service would not be accurately reimbursed for incurred expenses.

-- Inefficient/Ineffective Disposal of Seized Property

A July 22, 1987, report stated that the district (one of the largest in seizures) had not applied sufficient resources or management emphasis to the program and that,

"As a result, the seized property records are not accurate complete or up-to-date and cannot be relied upon to determine the number of open cases or the quantities and locations of seized assets on hand. Sales of seized property have been unnecessarily delayed possibly diminishing the return from their sale".

RECOMMENDATIONS TO THE ATTORNEY GENERAL

We recognize that the primary purpose of seizing assets is to economically punish criminals. Within that law enforcement context, however, we recommend the following actions to improve the economic effectiveness of real property seizures and forfeitures. Specifically, we recommend that the Attorney General

-- Revise agency criteria for determining whether it is economically worthwhile to seize real property to recognize the defendant's equity and costs anticipated to be incurred during forfeiture of the property.

-- Improve the adequacy and accuracy of real property information, including the reporting of defendant equity represented in the real property inventory.

-- Ensure that Justice agencies comply with the recently established requirement for title abstracts and opinions before or immediately after seizure.

-- Assess the extent to which legal and management real estate knowledge and expertise is needed within Justice and make arrangements to obtain this knowledge and expertise in-house or through contracting. This will

help Justice to assure that (1) the seizure of unprofitable properties can be avoided or quickly returned to the owner, or (2) title issues on profitable properties can be resolved while the property is being processed for forfeiture.

-- Consider alternative measures for resolving title insurance companies' reluctance to insure forfeited real properties.

-- Establish specified time frames for initiating the third party hearing process.

RECOMMENDATIONS TO THE
U.S. MARSHALS SERVICE DIRECTOR

To correct the administrative and management information problems, we recommend that the U.S. Marshals Service Director:

-- Develop a system with the court clerk to assure receipt of all legal seizure documents;

-- Devise a less paper-intensive, and compatible system between NASAF and the districts;

-- Provide NASAF program and district summary and individual property data to all districts for review,

reconciliation, and correction;

-- Require, where computerized inventory logs are used, an index of properties to assure that all are accurately accounted for;

-- Require important oral communications affecting the status and management of the property, whether they be with the case attorney, realtor, management firm, third party owners, or other, to be recorded in the file.

-- Assure that expenses and income are supported by appropriate documentation and comply with Marshals Service requirements; including periodically reviewing management firm reports to assure that expenses are not netted against income.

OBJECTIVES, SCOPE, and METHODOLOGY

The Subcommittee on Federal Spending, Budget and Accounting, U.S. Senate, requested us to examine the Department of Justice's management of seized and forfeited real property to determine whether the government was receiving as much for the properties as it reasonably could.

To address the Subcommittee's concern, our review focused primarily on real property located in three of Justice's Marshals Service districts: Miami, Florida; Houston, Texas; and Dallas, Texas. These three districts had 167 real properties, appraised at $36.6 million as of January 31, 1987. At that time, Justice's nationwide real property inventory was 866 properties appraised at $170 million. Therefore, these three districts represented 19 percent of the nationwide on-hand properties and 22 percent of Justice's appraised value.

We selected the districts of Miami, Houston, and Dallas because

-- Miami had the largest real property inventory with the

highest appraised value within all Marshals Service districts;

-- Houston had the largest real property inventory in number and value within the third largest Marshals Service region; and

-- Dallas had the second largest real property inventory within the third largest region. In addition, survey work was conducted in Dallas.

To accomplish our objective, we reviewed all properties disposed of in these three districts between October 1984 and May 1987. We also randomly sampled on-hand properties of January 31, 1987,[7] to determine whether properties in inventory had problems similar to those we identified with the disposals.

Nationwide, we reviewed four properties valued at more than $1 million that had been disposed of since January 1987 as well as 15 of the 22 properties appraised at $1 million or more that were on-hand as of May 1987. We reviewed these properties to

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[7] January 31, 1987, was selected as our cut-off date for the sample because often the property file lacks such information as title search, notice of seizure, and appraisal, until several months after the property is seized. Therefore, by reviewing properties in inventory as of January 31, 1987, the Marshals Service had possession of the property for a minimum of 4 months, which was sufficient time for some type of activity, whether legal or operational, to have occurred before we reviewed the file.

determine whether these high-value properties also had problems similar to those identified in our random review of disposals and inventoried properties. Specifically, we reviewed both the million dollar properties on-hand and those disposed in the Miami, Houston, and Dallas districts. The other $1 million properties we selected to review included

-- all nine such properties (one which had been disposed of and eight on-hand) located in the Tampa, Florida, district. The Tampa district had the most high-value properties;

-- an on-hand property in Virginia with the highest appraised value of all real property in inventory; and

-- one property disposed of in each the Grand Rapids, Michigan, and Milwaukee, Wisconsin, districts. These properties were reviewed at the suggestion of Marshals Service officials to aid in our understanding of the complexity of real property management and disposal.

In reviewing the files in Miami, Houston, and Dallas, we used a uniform data collection instrument to collect information, including (1) dates of seizure, forfeiture, and disposal, (2) appraisal, notice, and title information, and (3) income, expense, and other cost data.

We performed work at and discussed program and property management with officials in the following Justice agencies: Office of Associate Attorney General, Criminal Division, Justice Management Division, Marshals Service, U.S. Attorney, the Drug Enforcement Agency, and the Federal Bureau of Investigation. We also interviewed knowledgeable officials with the auction company that handled the November 1986 and January 1987 sales, the American Land Title Association, and title underwriting companies.

Our review, completed between January 1987 and August 1987, was conducted in accordance with generally accepted government auditing standards.

Appendix II

Appendix II

Aging of Real Property Disposals

Miami, Dallas, Houston

October 1984 to May 1987

Description	Net $ Amount Realized or <Loss>	Days in inventory				
		0-60	61-180	181-365	366-730	Over 731
Returned to Lienholder[1]	<$48,200>	3	5	4	5	3
Sold at Profit	$2,219,900	1	1	7	4[2]	7
Sold at Loss	<$35,000>	0	1	0	3	1
Unknown	-	0	0	0	1	0
Total	$2,136,700	4	7	11	13	11

[1] Seizure date and date returned to lienholder was not available for one property.

[2] Sales information was not available for one property; therefore only 46 of the 47 properties are shown in the schedule.

Examples of Inventoried Properties With Marginal Prospects For Realizing Net Economic Return As of May 1987

Description	Value	Liens and costs	Projected Net Return or <loss>[1]
Motel, Daytona Beach, FL	$702,000	$842,000	<$40,000>[2]
Mobile home park Lakeland, FL	3,020,000	3,600,000	<580,000>
Farmland, Lakeland, FL	575,000	531,481	-0-[3]
House Miami, FL	225,000[4]	238,000	<13,000>[5]
Land parcels, Starr County, TX	82,700	100,000	<17,300>
House Irving, TX	138,500	151,200	<12,700>
House Houston, TX	44,000	49,000	<5,000>
Totals	$4,787,200	$5,550,181	<$668,000>

[1]Direct costs, such as those incurred in managing, maintaining, and disposing of real properties are included in our computation of net economic return. Undeterminable personnel costs of U.S. Attorneys, U.S. Marshals and other agency personnel are not included.

[2]Government did not pay valid lien of $100,000 because of insufficient sale proceeds.

[3]To be returned to lienholder because accumulating interest and anticipated selling expenses would exceed sale price.

[4]Sale price but sale had not yet gone to settlement.

[5]Projected $13,000 loss as of May 31, 1987, is based on the likelihood that the circuit court will order the Marshals Service to pay the mortgagee post-seizure interest at $49 per day.

Department of Justice

STATEMENT

OF

JAMES I. K. KNAPP
DEPUTY ASSOCIATE ATTORNEY GENERAL

BEFORE

THE

SUBCOMMITTEE ON FEDERAL SPENDING, BUDGET AND ACCOUNTING
COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

CONCERNING

MANAGEMENT OF SEIZED CASH

ON

SEPTEMBER 25, 1987

Mr. Chairman and Members of the Subcommittee--

I appreciate the opportunity to appear this morning to discuss the federal forfeiture efforts taken by the Justice Department since my testimony before the Subcommittee on March 13, 1987. As requested by the Subcommittee Chairman, I will discuss the implementation of the plan to improve seized cash management practices, the status of the backlog in processing forfeiture cases, and the management of seized property by the U.S. Marshals Service.

Before addressing these three items, I would like to provide the Subcommittee with some information which demonstrates the great success the Department is experiencing with the forfeiture program. We anticipate that FY 1987 revenue to the Assets Forfeiture Fund will reach $175 million, an increase of 87 percent over gross income for all of Fiscal Year 1986. Fund revenues include the proceeds of completed forfeiture actions and property disposal, after custody expenses are deducted. The Assets Forfeiture Fund is the account from which the Department issues checks to State and local law enforcement agencies which participated directly in the acts which led to seizure or forfeiture. Over $40 million of anticipated FY 1987 Fund expenses of $112 million will be shared with these State and local agencies. This represents 40 percent of the <u>payments</u> made from the Fund this fiscal year. Additionally, we anticipate sharing $15.5 million in non-cash property with State and local agencies this fiscal year.

Management of Seized Cash

Concerning the management of seized cash, we have taken direct and decisive action to reduce the amount of seized cash retained in the facilities of investigative agencies for evidentiary purposes. On the very day I last testified before this Subcommittee, Associate Attorney General Steve Trott issued a policy directive to affected Department components outlining a national policy for seized cash management. The primary goal of this policy was to increase the security of both the seized cash and Department field offices at which the cash is stored. A secondary, yet important, goal was to enable the government to realize the economic benefits from seized cash in reducing the debt servicing burden on the U.S. Treasury. Placing the seized cash on deposit at Treasury rather than retaining it in agency vaults or safe deposit boxes is sound management practice for increasing control over seized cash.

The policy memorandum directed all components holding seized currency subject to criminal or civil forfeiture to deliver the seized currency to the U.S. Marshals Service either within sixty days after seizure or ten days after indictment, whichever occurs first. Limited exceptions to this directive are permissible only if the retention of the currency seized, or a portion thereof, serves a significant, tangible, evidentiary purpose. This may occur due to the presence of fingerprints, the packaging of currency in an incriminating fashion, or the existence of a

traceable amount of narcotic residue on the bills. Exceptions to this policy may be granted only with the express written permission of the Assistant Attorney General, Criminal Division. To date, only seven exceptions involving a total of $2.5 million have been granted.

The national seized cash management policy has had a dramatic impact since going into effect on May 1. In these four months, over $92 million has been deposited to the Seized Asset Deposit Fund, a Treasury account where non-evidentiary seized cash is held pending forfeiture. Average monthly deposits of $23 million since policy inception are nearly triple the monthly average of $8.4 million for the 21 months prior to policy issuance. This unprecedented activity has increased the net cash balance in the account by $51.5 million, from $87.6 million on May 1 to $139.1 million on August 31. For all of Fiscal Year 1987, the net cash balance has nearly tripled.

Please note that the U.S. Treasury has realized over $5.5 million in actual interest savings this fiscal year from the Department's efforts in the seized cash area. While these interest saving could legally accrue to the Assets Forfeiture Fund, we have determined that, at this time, the Federal Government as a whole is best served when the interest savings are realized by the Treasury.

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Progress on Addressing the Backlog

The Department has assigned a high priority to eliminating the backlog in the processing of forfeiture cases. The Attorney General recognized that the processing backlog may delay deposits to the Assets Forfeiture Fund, slow the placement of assets into official use, and stall the sharing of assets with State and local enforcement agencies. He directed Associate Attorney General Steve Trott to take the requisite actions to correct the problems which contribute to the backlog. In May, Mr. Trott provided each component involved in forfeiture case processing with an action memorandum outlining corrective measures required to address the backlog. These measures were derived in large part through the recommendations of a special cross-organizational committee which was established to define and articulate the backlog problem.

Early results of the backlog-reduction effort have been very encouraging. The Drug Enforcement Administration, which processes the bulk of all forfeiture cases, has reduced its backlog by a remarkable 80 percent in just nine months. The DEA backlog stood at 9,500 in December of 1986. By September 14, 1987, DEA reported that just 1,931 cases had not been processed to completion within 150 days of the date of seizure. An additional 700 unprocessed cases were impacted by unusual circumstances and thus are not included in the backlog. The Federal Bureau of Investigation has reduced its backlog by 83 percent, from 2,000 in March of 1986 to just 336 cases backlogged as of September 14.

The reduction in the backlog can be attributed to many factors. Primary among these is the Department's sincere efforts to utilize fully the expanded purposes of the Assets Forfeiture Fund, as authorized by Congress last year in the Anti-Drug Abuse Act, to mobilize additional resources for processing of forfeiture cases. Under the 1986 amendments, which for the first time permit program-related expenditures from the Fund, we are contracting for data entry services, clerical help, analytical services, computer programming, and ADP equipment necessary to cut forfeiture processing time. Further, agencies are increasing in-house personnel resources through detailing personnel from other programs within the agency, the granting of overtime and compensatory time, and by requesting additional forfeiture personnel and related resources as part of their 1989 budget request. DEA established an 18-member task force and more than tripled its headquarters forfeiture staff to address this issue. Finally, operational procedures both within the Department and at State and local agencies are being standardized, and training is being provided to ensure that the paperwork involved in forfeiture processing is complete and accurate.

By January 1, 1988, we expect that forfeiture case processing time will be reduced to 120 days except for those cases with unusual circumstances. This 120-day period does not include the timely and proper disposal of forfeited assets by the U.S. Marshals Service.

Success of the Equitable Sharing Program

As I mentioned earlier, the backlog may contribute to a lengthening of the time required to share a forfeited asset with a participating State or local law enforcement agency. However, these delays have clearly not dampened the enthusiasm of the State and local law enforcement community for the Equitable Sharing Program. Just last month, the Justice Management Division concluded an in-depth, scientific sampling of 195 State and local law enforcement agencies that received 352 equitable shares granted by the Department in 1986 and 1987. This survey was undertaken to determine whether the Sharing Program was meeting its primary goals of increasing cooperation between law enforcement agencies and increasing State and local law enforcement resources. Also, we were interested in having the agencies identify the law enforcement uses to which they apply the shared assets they received.

Responses to the survey provided strong evidence that the Sharing Program is meeting its goals. Ninety-six percent of sharing recipients believe the sharing program has had a significant impact on cooperation between the agency and federal law enforcement agencies. In addition, over 99 percent of respondents indicate that they plan to cooperate in joint investigations with federal agencies in the future in an effort to receive more shares. Further, 96 percent of respondents said the share received had increased law enforcement resources for the agency, and 89 percent noted that the share had a significant

impact on the agency's ability to fight crime. Finally, agencies reported that they were applying the shared assets to a variety of law enforcement purposes of their choosing. Primarily, shares were used to purchase equipment and increase the size of the agency's fleet. I have enclosed, for the record, a table which identifies the law enforcement uses to which shares were applied.

Property Management by the U.S. Marshals Service

The Subcommittee expressed an interest in the discussing the management of seized property by the Marshals Service. I firmly believe that the Marshals Service is doing an excellent job in meeting its property management responsibilities. As of July 31, the Marshals Service was managing over 8,400 pieces of property throughout the United States.

The Department is continuing its efforts to consolidate property management responsibilities within the Marshals Service. Currently, all real property seized by the Department is managed and disposed of by the Marshals Service. Real property, cash and other financial instruments, and intangible assets, e.g., businesses controlled and operated by the Marshals Service, account for more than three-fourths of the value of all seizures by Justice. The transfer of custody responsibility for remaining conveyances and miscellaneous property categories from other seizing agencies to the Marshals Service is proceeding steadily and successfully, and is virtually complete. The current target date for the Marshals Service to assume all property management

responsibilities is October 1, 1987.

To handle both the current property management workload and the expected large increase, the Marshals Service is making every effort to apply available resources to ensure efficient and effective management of all properties on hand. This efficient management is evidenced by the fact that costs associated with the management and disposal of seized property are expected to account for just nine percent of gross income to the fund in Fiscal Year 1987. The Marshals Service has identified several aspects of the property management function, including auctioning and appraisals, which can be performed on a contractual basis with the private sector. These contracting efforts are paying dividends, and I expect them to be continued in the future. Please be aware, however, that certain key aspects of the property management function are not conducive to contracting out, and must still be performed by the Marshals Service. Examples include pre-seizure planning with investigating agents and prosecuting attorneys, the actual seizure of property, executing warrants in rem, the care and custody of certain property which involves high security risk, the distribution of shared assets to State and local enforcement agencies, decision making on such matters as whether and when to pursue interlocutory sales, and accountability for Fund management and solvency. Overall, consolidated responsibility for property management should remain with the Marshals Service.

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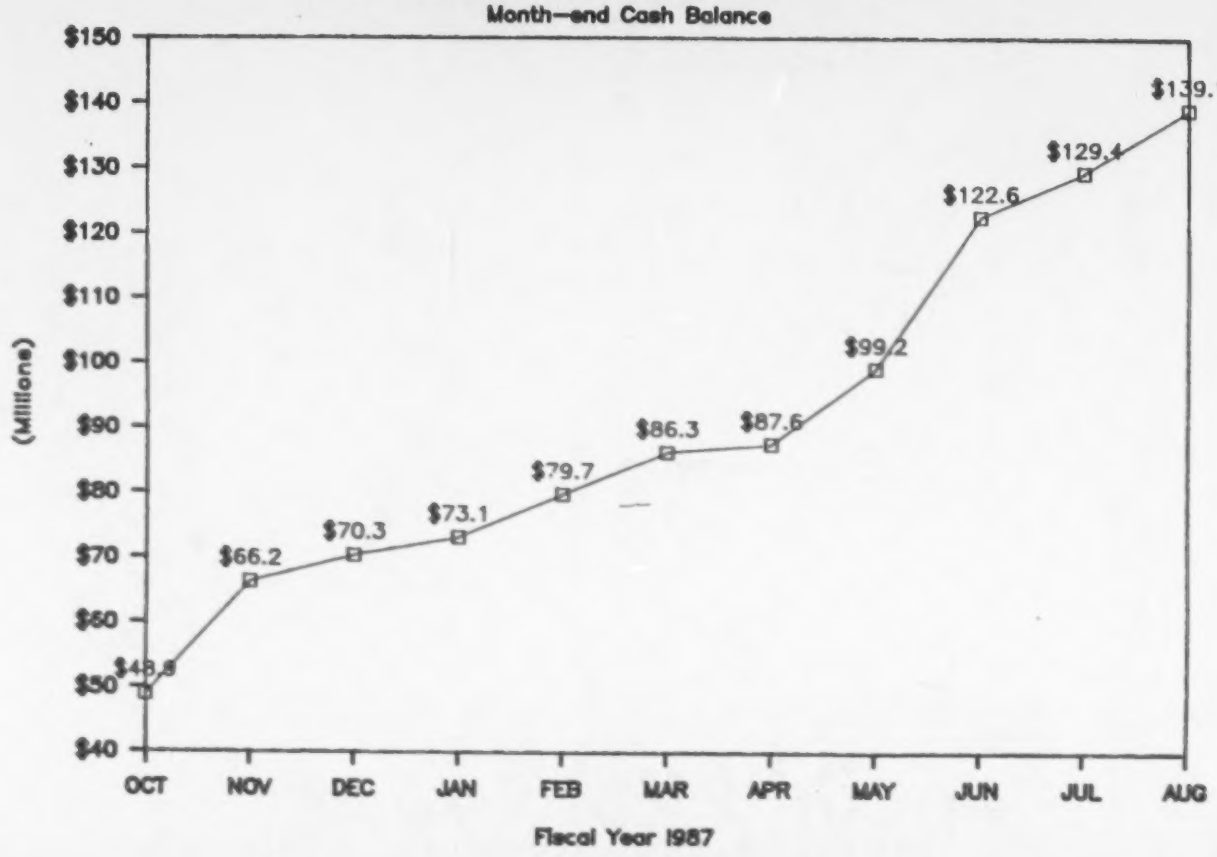
With me today to represent the Marshals Service is Mr. Jeffrey Fratter, who is the Director of the forfeiture program for the Marshals Service. He is available to assist me in answering any questions you may have concerning the management of seized property.

Conclusion

In conclusion, please be certain that our efforts to more securely and economically manage seized cash, to reduce the forfeiture case processing backlog, and to most efficiently manage forfeited properties are not being allowed to interfere with the basic thrust of the forfeiture program--to remove the instrumentalities and proceeds of drug trafficking from the control of organized crime and drug syndicates. We continue to believe that forfeiture represents one of the most effective means of eradicating the organizations involved in the drug trade. By forfeiting the cars, boats, planes, real property, and cash of a drug operation, we are often able to put a drug operation entirely out of business. That will continue to be our first priority in the forfeiture area as we work to address the other management issues that are ancillary to our fundamental mission.

This concludes my statement. Thank you for the opportunity to appear before the Subcommittee. I will gladly answer any questions you or the Subcommittee members may have on these or related matters.

Seized Asset Deposit Fund



Responses Provided by State and Local Law Enforcement Agencies to Survey on the Equitable Sharing Program

Law Enforcement Uses to Which Shares Are Applied

Number of Responses

Category	Cash Shares	Property Shares	Total	Percent of Total
Purchase Equipment	146	17	163	32.8%
Increase Fleet Size	33	55	68	17.7
Purchase Supplies	40	2	42	8.5
Begin New Initiative	23	7	30	6.0
Pay Salaries	23	3	26	5.2
Office Automation	13	3	16	3.2
Instead of Purch. or Rent	0	14	14	2.8
Pass Through to others	9	2	11	2.2
Purchase Conveyances	5	0	5	1.0
Pay for Prison Space	1	2	3	0.6
Remains Unused	15	0	15	3.0
Other Use	67	17	84	16.9
TOTAL	375	122	497	100.0%

NOTE: Respondents were not limited to one selection.

EFFECTIVE DISPOSITION OF PROPERTY SEIZED PURSUANT TO FEDERAL FORFEITURE LAWS

Submitted By:
BY: Richard M. Brenner

Mr. Brenner is an attorney admitted to practice in New York and Florida; a Partner in the law firm of Layne, Brenner & Dienstag located in Miami, Florida. Mr. Brenner specializes in real estate law including the acquisition, disposition and financing of all types of real property; authorized agent for a number of title insurance companies; and a member of the American Land Title Association. Mr. Brenner has been involved in the disposition of approximately forty (40) properties which have been seized pursuant to Federal Forfeiture Laws and worked closely with The United States Government in devising a method of disposing of seized property through the use of insurable title.

THE LAW OFFICES OF LAYNE, BRENNER & DIENSTAG, 21 Southeast First Avenue, 8th Floor, Miami, Florida 33131

EFFECTIVE DISPOSITION OF PROPERTY SEIZED PURSUANT TO FEDERAL FORFEITURE LAWS[1]

Thank you for the opportunity to address this committee on the important issues which have developed as a result of the implementation of the Federal Forfeiture laws.

This report has been prepared to aide this subcommittee in formulating the most effective means of disposing of property which has been seized as a result of criminal activity.

The forfeiture laws were enacted for the purpose of penalizing those who are involved in criminal activity by taking away the fruits of such illegal action. The forfeiture procedure does not require that payment be made to the owner of such seized property and the Government takes title to the property subject to the rights of innocent owners and lien holders. The forfeiture laws were not enacted to provide income to the Government, however, such a result can be obtained if the seizure and disposition of the property is handled correctly.

The procedure followed in the enforcement of the forfeiture laws involves a number of Federal agencies. An investigative agency locates properties that are believed to have been purchased or used in connection with criminal activity. The Justice Department obtains an owner and encumbrance search, a search of the public records to determine the last owner of record and the names of persons having an interest in the property. A determination is then made as to the approximate value of the property to determine if the property has value in excess of the outstanding obligations, in which case an action is commenced by an Assistant U.S. Attorney. If a determination is made that the property does not have value in excess of the outstanding obligations, an action to seize the property generally is not commenced.

A federal forfeiture proceeding is an action against the property, known as "in rem", in which the real estate is the named defendant rather than parties

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[1]21 U.S.C. sect. 881 and 28 U.S.C. sect. 1355

having an interest in the property. Notice is required to be given to persons having a known interest in the property which is being seized. Immediately upon the commencement of the forfeiture action, an arrest in rem is obtained and the Government assumes responsibility for the property. From that time until the property is sold and conveyed to a purchaser, the financial responsibility of the property rests with the Government. In most instances it has taken at least two years to obtain a final judgment of forfeiture. With rare exception, the sale of the property cannot begin until a final judgment of forfeiture is obtained except where an interlocutory order is entered.

The sale of seized property has been accomplished by two different procedures. In one situation, the property is listed with a real estate broker and sold; the other method is by public auction. Until the Florida proceeding handled by our law firm, all property was conveyed by use of a Marshal's Deed. This type of deed is known as a quit claim deed if the seller was other than The United States Government.

The Marshal's Deed method of disposition should be discontinued as it gives no real advantage to the Government and may penalize innocent purchasers. While the purpose of the forfeiture laws is to punish persons involved in criminal activity by taking away the fruits derived from such activity, the Government can benefit financially from the sale of such properties by selling in such a manner as will derive the highest and best price for the property. Since the Government does not pay for the property, the potential to generate money from the sale of such property exists if handled correctly.

The value of property is affected by a number of factors. Among them are the location, condition and demand for a particular property. The major factor effecting the value is the state of title. This depends upon whether the Government will guarantee the title to the purchaser and whether the title is insurable. The sale of seized property by a Marshal's Deed is unique in that no assurance of the ownership of such property is given at the time of sale and no form of title insurance is made available to the purchaser. As a result, the price which a purchaser is willing to pay for such property can be substantially less than if the Government stands behind the title to the property by giving the purchaser warranties of title. In all other instances in which the Government sells property, such as the sale of property obtained by the Government

as a result of the foreclosure of Government secured loans, a complete title examination of the property is made and the property is transferred by means of a Special Warranty Deed. The transfer by use of a Marshal's Deed without any assurance of good title is inconsistent with the Government policy of protecting innocent persons. All other areas of land and security laws require disclosures to be made to protect potential purchasers and make certain that they fully understand the risks which they are assuming. When the Government has sold seized properties by a Marshal's Deed, it has not provided any warning to potential purchasers. Such purchasers expect title to be good and marketable since The Unites States Government is the seller.

The present procedure established appears to be punishing the law abiding citizen and rewarding the criminal. The criminal is relieved of his financial obligations as often the Government satisfies obligations of the criminal which are directly related to the property. At the same time, the Government is transferring such properties without guarantees as to the good title to the property and without warning purchasers that there may be title defects. What would the Government do in the event that the interest of a purchaser was challenged by someone who had an ownership interest in the property which was not extinguished?

There is a constitutional issue of due process created by the procedures followed in federal forfeiture actions since notice to persons having outstanding interests in the property is not being given. The title acquired by a purchaser could be challenged for a minimum of seven years from the transfer of title to a purchaser. In order to get the highest and best price and protect the purchaser the Government should guarantee the title to the property. This is not difficult to implement if competent professional are employed to assist the U.S. Attorney and should not affect the Governments' cost of obtaining the property. It is vital to recognize that the laws of the local jurisdiction where the property is located need to be followed to clear outstanding claims to the property. The federal forfeiture laws do not address procedures contained in state laws which effect title to real property. A forfeiture action is an action against the property and does not list

outstanding interests against the property as named defendants. Local real estate laws, on the other hand, require that actual and potential outstanding claims against the property be listed.

More effective disposition of seized property can be accomplished by assuring purchasers that they will obtain marketable title guaranteed by the United States Government and backed by title insurance. The property should be sold as quickly as possible using a method which will create the greatest demand for such property. In order to accomplish the foregoing, the federal forfeiture action should incorporate local real estate practice requirements to clear title as to all persons who have a real or potential interest in the property. For example, a guardian, administrator or attorney ad litem should be appointed to remove claims of unknown persons who may have an interest in the property. The combining of the federal forfeiture action and local real estate procedure should not extend the duration of the proceeding to confirm title in The United States and should expedite the closing of the sale of such property.

Prior to commencing a forfeiture, a title insurance commitment should be obtained from a knowledgable real estate attorney, agreeing to insure the title and setting forth the requirements to provide marketable title. In this manner, the Government experts should know what steps need to be taken. As a result, both the Government and the purchaser are assured of having clear title. A variation of this procedure was successfully implemented in Florida by this law firm with regard to the sale of property handled by Auction Company of America in November, 1986 when property was sold with assurances of title.

Outstanding interests should be reviewed and a determination made as to the amount needed to satisfy legitimate claims against the property. The final judgment of forfeiture should recite the removal of all interests in the property and confirm the ownership of the property in The United States. Extraneous matters which may cloud the title to the property should not be included in the final judgment.

The manner of marketing, advertising and selling property can significantly influence the value derived. An effective marketing program should be established to notify all persons who may be interested in purchasing

property of the availability of the property. The use of an auction creates a demand in property by bringing potential purchasers together at the same time and location to compete for the property. Market value is the price which people are willing to pay. The amount derived at an auction should be equal to and possibly greater than the amount which can be derived through the traditional use of a real estate agent showing the property to one perspective purchaser at a time, and will expedite the liquidation of the property. The sale of property through the traditional method of listing with a real estate broker, advertising and showing the property on a one on one basis does not create a demand effect as does an auction. The auctions which were conducted in South Florida in November, 1986 and January, 1987 brought large numbers of persons and created quite an interest in the properties.

Financing should be made available to purchasers by having lenders present at the auctions for purposes of pre-qualifying potential purchasers, as are common in the sale by auction of Government secured properties which are foreclosed. A standard form of sales contract should be used which passes to the buyer costs which are commonly paid by buyers of property, including title insurance and the recording of the deed of conveyance.

The Marshal's Service should work closely with a knowledgeable real estate attorney to remove any claims against the property which are not enforceable or which can be negotiated to a lesser amount. The full impact of the federal laws should be utilized, including the removal of property taxes as an obligation of the property, since the United States Constitution exempts the Federal Government from state taxation. Holders of mortgages should be encouraged to pursue deficiencies against the borrowers by enforcing the promissory notes rather than having the Government pay amounts in excess of that derived from the sale of seized property. In the event the amount outstanding against the property equals or exceeds the sale price, the property can be deeded to the last lien holder of record without requiring the Government to pay obligations outstanding against the property.

Following the foregoing procedure should maximize the money which the Government can generate from the sale of seized property.

EXAMPLES OF FACTORS AFFECTING THE DISPOSITION OF SEIZED PROPERTY

The following are factual situations observed or reported which affect the financial disposition of seized property and which can be eliminated by the use of the procedure recommended above:

1. The failure to extinguish all outstanding interests in the property being forfeited.

2. Failure to use persons having expertise in the clearing of title objections, marketing and sale of seized property.

3. Insertion of extraneous statements contained in final judgments, such as names of tenants in possession.

4. The failure to pass costs to buyers, such as buyer's premium associated with auctions; recording of transfer documents; hazard insurance on the property; and title insurance.

5. Failure to have financing available.

6. Failure to seek the use of interlocutory orders in every instance possible.

7. Delays in pursuing the forfeiture actions.

8. Failure to take advantage of laws and court order which reduce the obligations against the property.

9. Pursuing the closing of the sale of property having no equity.

10. Failure to seek reductions in outstanding obligations.

By changing a few of the procedures presently followed by the Justice Department, the seizing and sale of real estate involved in criminal activity can generate income for The United States. I will happy to assist in the implementation of the procedures recommended in this report.

80-856 O - 88 - 5

U.S. Customs Service

Statement of William F. Riley

Comptroller

Mr. Chairman, I am pleased to have the opportunity to appear before this Committee to describe the progress Customs has made in developing and implementing a more efficient seized cash and property management system.

The issue of efficient management of currency and other assets is important because each year the Customs Service seizes millions of dollars in cash, monetary instruments, conveyances, real estate, and other assets. We are aware, of course, that seizures of this magnitude bring with them a responsibility to ensure proper control and management, while minimizing the time in converting these seizures to Governmental funds. As the previous hearings and GAO reviews have highlighted, the significant issues related to the overall system reflect (1) physical control of the seizure; (2) resolution of the legal evidentiary requirements for seized cash; (3) inventory and accounting of seized currency and other assets; and (4) a cash management national policy and related procedures.

The system currently in-place is designed to efficiently process the growing number and dollar amount of seizures, including currency, monetary instruments and other assets generated by our successful enforcement

program. The number and quality of seizures have been increasing. For currency seizures alone, Customs in FY 1984 seized $67.7 million; by FY 1986 this figure reached $121.5 million, and we expect a comparable total in FY 1987.

To control and assure the security of these currency seizures Customs has developed and is in the process of fully implementing a computerized tracking system. The Customs Service is continually striving to improve its procedures and policies for managing seizures. In light of the growing volume of seizures and GAO and Committee recommendations, Customs has undertaken, on a priority basis, the implementation of strengthened measures for managing, reporting, and physically controlling all types of seizures, including currency and monetary instruments.

We are pleased to report that GAO and Committee recommendations have been incorporated in our updated system. Specifically, the following management actions have been implemented since the previous hearing before this Committee:

- A national policy and an inventory system for seized cash were established on July 9, 1987. Automated inventory tracking will ensure accurate statistics of seized cash and monetary instruments.

- A suspense account has been established so that all deposits of nonevidentiary seized cash and monetary instruments can be immediately identified, controlled and deposited. Specific deadlines have been established for the processing and transfer of cash and monetary instrument seizures.

Similar improvements have been implemented for the management, control and processing of real property and other assets. As a result of the improvements introduced in this program, we anticipate that the income from these seizures will rise significantly as improved maintenance and storage procedures are fully implemented. We also wish to ensure that the Government does not incur any losses on property or business seizures. Although these seizures are still infrequent and only account for a small percentage of the overall total, Customs has instituted with other Federal

agencies indepth preplanning to assess and evaluate potential seizures of this type. We believe that this procedure will certainly minimize the occurrence of dollar losses to the Government.

Basically, as recommended, the system establishes national policy oversight and inventory of all seizures. A deposit fund has been established for the prompt processing of cash seizures. Periodic reassessments and audits are now included in the overall Customs system. Also, we believe that identified accounting weaknesses have been corrected. With regard to the Forfeiture Fund, we are in basic agreement with GAO on required reports and intend to provide them to the extent possible consistent with current statutory requirements.

Finally, I would like to report to the Committee on our asset transfers to state and local law enforcement agencies -- a top priority of the Commissioner of Customs. The recent success and accomplishments of our drug enforcement programs could not have been achieved without the full support of these state and local enforcement agencies. Therefore, the $8.4 million transferred to the agencies

through July 1987 is money well spent. We are currently in the process of transferring an additional $4.0 million, for a total of over $12 million. Of interest, transferred assets included 25 vessels, 85 vehicles, and 19 aircraft.

In summary, we wish to acknowledge the assistance of the GAO in highlighting potential improvements in our cash management system. Today, our in-place nationally controlled and operational system meets the standards of good fiscal management.

Mr. Chairman, this concludes my prepared statement. I am prepared to respond to questions from the Committee.

AMERICAN
LAND TITLE
ASSOCIATION

1828 L Street, NW
Washington, DC 20036
202/296-3671

September 25, 1987

Senator Lawton Chiles
Subcommittee on Federal Spending and Budget
Government Affairs Committee
Room 326
Dirksen Senate Office Building
Washington, D.C. 20510

Re: Hearings on Seized Cash and Property

Dear Senator:

The American Land Title Association (ALTA) appreciates this opportunity to submit its written comments regarding one important aspect of the above referenced subject: forfeiture of real property and the title assurance needs of the Federal government in its subsequent disposition of seized real property.

The ALTA is the national trade association of the land title industry. It has approximately 2,300 members, including title insurers, title insurance agents, abstracters and associate members. Those members employ nearly 100,000 people. The principal function of the land title industry is to facilitate the safe, certain, and efficient transfer of title to real estate in both residential and commercial transactions by ascertaining and insuring the rights of purchasers, mortgage lenders, and others in real estate that are involved in these transactions. Accordingly, the members of ALTA have an interest in the certainty and predictability of the laws affecting titles to and rights in real estate--as well as the proper interpretation and administration of such laws.

The concern of this Subcommittee is the rapid, efficient, and effective disposal of real property seized by the Federal government. As you have no doubt become aware, the disposal of this seized real property has been impeded as the result of the inability of purchasers to obtain title insurance. That inability, we believe, is caused in large part because of the nature of the statutory authority for seizure of real property by the Federal government and the current implementation by the Department of Justice and U.S. Marshall's Service of the forfeiture program.

Civil forfeiture proceedings brought pursuant to 21 U.S.C. Section 881

and other statutory provisions have caused the land title industry, particularly title insurance companies, considerable concern. Most of that concern focuses upon the adequacy of the notice given by the government to parties having an interest in the affected parcel, the adequacy of the procedural due process afforded those parties, and the quality of the deed given to purchasers of the properties with respect to which the government requests our members' insurance.

The independent experience of many of our member companies has been that little or no information can be obtained from the typical assistant United States Attorney regarding the nature of the notice provided, the parties noticed, the steps taken to assure that these parties were the correct or only parties requiring such notice, or any other information regarding the matter. Criminal prosecutions are, by their nature, secretive exercises. Such confidentiality, however, must give way to the extent necessary to dispose of these properties in a commercially feasible manner.

We note that the Department of Justice has developed guidelines which, if implemented, may address to a large extent our concerns about knowing who was noticed and the nature of the notice given. As we understand those guidelines, such information would be made a part of the civil forfeiture proceedings and, hence, a matter of public record. It is also our understanding that those guidelines would encourage--if not require--the use of some title professional to provide an adequate search of the public records to determine the parties to whom notice must be sent.

We have some concern, however, regarding this guideline approach. First, the notice requirements do not appear to require personal service but, rather, appear to rely on a combination of publication and mailed notice with personal service only an option. Obviously, we would prefer personal service as the primary noticing mechanism--such service being the least subject to attack and, as we understand it, the approach normally taken in executing on a Federal judgement in Federal court. Second, and certainly of more importance, is that these guidelines are not part of the statutory obligation which the Federal government must observe. While the Subcommittee is primarily concerned with the disposition of seized property, you must certainly also be concerned about the rights of innocent third parties such as mortgage lenders and purchasers who have taken interests in these properties with no knowledge of the wrongdoing of the criminal. Such a party, whose interest we may have insured, may lose their interest through the failure of an AUSA or U.S. Marshall's Service employee to observe these internal guidelines and provide the notices thereunder. Such parties would not, as we understand it, be in a position to collaterally attack the forfeiture action. This result does not appear to be either equitable or effective public policy.

Nonetheless, these steps, if pursued, would go a long way toward satisfying concerns of the industry regarding the mechanics of the forfeiture. Notwithstanding this, however, concerns about the underlying process as it relates to real property and its legal sufficiency remain. While adequately supported in the context of personal property, the application of the forfeiture process to real property is relatively recent and, arguably, inappropriate. The same policy considerations which are applicable to

personalty are not applicable to realty. For instance, the United States should obtain a warrant issued by a magistrate upon a showing of probable cause rather than simply relying upon the rules contained in the Supplemental Rules for Certain Admiralty and Maritime Claims. Whether on that ground or another, the process itself may be subject to a successful Constitutional challenged at some future date, raising serious concerns regarding the title conveyed by the government.

Our concerns about the integrity of the forfeiture process are not allayed by the expansive administration of 21 U.S.C. 881 by the Department of Justice. Justice's oft-stated position, for instance, that, under the "innocent owner" provision of Section 881(a)(6), an innocent mortgagee's claim of post-seizure interest and costs is not valid as against the government, causes us great concern. This is their position even where the security agreement clearly provides that accrued interest and expenses advanced to protect the lien of the mortgage are to be made part of the secured indebtedness. While several district courts have differed on the appropriate reading of the statute, the only circuit court to have considered the issue has strongly rejected Justice's position. In re Metmor Financial, Inc., 819 F2d 446 (4th Cir., 1987). This concern is in addition to our great problems with the mandate that any third party interest holder must appear within a relatively short time after receiving notice (assuming they do receive notice) and prove their bona fides or risk loss of their property right. This kind of implementation has given the title industry further concern about the efficacy of this procedure as applied to real property.

We would suggest, at a minimum, that the U. S. Marshall's Service be instructed to provide at least a limited or special warranty deed, which would address the forfeiture proceeding itself, specifically assure that the notices required under the Justice Department's internal guidelines have been given, and that such notice satisfies any procedural due process requirements. This will provide the requisite assurance to make title insurance commercially feasible in these cases. Other governmental agencies, such as the Department of Housing and Urban Development's Federal Housing Administration and the Veterans Administration, routinely provide at least special warranty deeds in the disposition of real property obtained under their programs. Warranty deeds are specifically authorized under the criminal forfeiture provision (21 U.S.C. 853(n)(7); 18 U.S.C. 1963(l)(7)) and would appear appropriate in this context as well. The current use of a quit claim deed hardly encourages confidence in the underlying program. If, as repeatedly asserted by Justice Department officials, there is absolute confidence in the constitutionality of the statute--and the underlying procedures--then such a requirement should pose no difficulty at all.

It should be understood that these properties are not attractive title orders even absent the Constitutional and mechanical concerns regarding the forfeiture issue. They are dis-proportionately subject to creditor's rights problems such as bankruptcy, to Federal and state tax liens, and to many other potential title defects. These risks, however, are the appropriate concern of the title industry and the kind of matters which can be adequately addressed in the underwriting (search and examination of title) of the policy. The constitutionality of a Federal statute and of an agency's implementation

of such a statute is not.

The Subcommittee should also be aware of other practical, commercial considerations operating in this area. The number of title orders involving seized property in any given year would certainly be less than 1,000--not a sufficient number to warrant development of extensive underwriting guidelines--and the total dollar value of these properties would be relatively low--again, not warranting the involvement of national headquarters underwriters in reviewing difficult title issues. This is simply the commercial reality facing the Federal government when attempting to dispose of these properties. While the title industry is anxious, as always, to assist the government where it can, this commercial reality must be considered by the government in structuring its program.

In passing, it may be appropriate to share with the Subcommittee two observations which have been made to us by counsel for our members who have been involved with some of the seized property. First, they note that the value--particularly in a distress sale context--of many of these properties in relation to the outstanding bona fide lien amounts and prospective holding expenses and selling costs would seem to be insufficient to justify the seizure in the first place. They wonder whether some administrative rule should not be established which would address the question of when property should be seized. While the public policy of the seizure is to deny the criminal wrongdoer his or her ill-gotten equity in the property, that equity may well be so small as to result in an actual burden on the government. We are advised that figures regarding the value of real estate forfeited are regularly disseminated by the government. It would be interesting to evaluate whether those figures reflect or otherwise recognize the likely net realization the government will obtain upon sale.

Second, our members' counsel have advised that highly competent but over-worked field personnel may cause some of the delay in disposition, with the resulting physical and value deterioration of the properties. As an example, a Hong Kong shell corporation (whose owners were already incarcerated) which owned a seized property was not noticed for many months by the United States Attorney's office, notwithstanding the fact that there is a procedure for such notice and that the foreclosing mortgage lender had perfected its notice of the corporation. This indicates that delays in the legal process may negatively impact the rapid disposition of these properties even if the process itself has been perfected.

Finally, we would note, with considerable concern, legislation introduced by Representative Claude Pepper (D-FL). H.R. 2898 would expand the government's civil forfeiture authority to encompass mail and wire fraud. Considering the breadth of these statutes, ALTA would definitely not recommend such a tremendous expansion of this authority. In any event, however, concerns such as those discussed above should certainly be firmly addressed before such an expansion should even be contemplated.

The ALTA is most anxious to work with the Subcommittee, the Department of Justice or the U.S. Marshall's Service to develop or implement workable guidelines and procedures for the safe, efficient transfer of seized

property. If, as has been suggested, national contracts for both pre- and post-seizure title services are desired, ALTA would be happy assist in the preparation of an RFP and to disseminate contract information. If any other background information on industry practices or characteristics is desired, ALTA is prepared to assist in any way it can.

Thank you for this opportunity of sharing with you the views of the title industry on this difficult subject.

Sincerely,

Marvin C. Bowling, Jr.

Marvin C. Bowling, Jr.
President-Elect
American Land Title Association

xc: Robert Harris

[From the Washington Post, Oct. 10, 1987]

Fracas Erupts Over Sale of Historic Mansion

(By Tom Precious)

The Justice Department, an agency usually known for being up on the nation's laws, neglected to follow a 21-year-old federal historic preservation statute last year when it auctioned off a landmark Loudoun County estate that it had seized in a drug raid.

The mistake has set off a bizarre form of regulatory roulette among several state and federal agencies. The fracas has attracted the interest of two members of Congress, who are pushing the Justice Department to make amends for its action by imposing tough restrictions to protect the historic site, the Shelburne Glebe estate in the heart of Virginia's hunt country.

In addition, preservation groups lobbying to save the 200-year-old estate, as well as local residents who are pushing to prevent further development in the county, have joined the fray. Participants in the fight said they still have time to try to influence the Justice Department to place various restrictive covenants on the property, since the sale has not yet been completed.

At issue is the department's failure to follow provisions of the Historic Preservation Act, which Congress passed in 1966 to protect the nation's historic landmarks. One section of the act requires the federal government to consult with certain state and federal historic preservation agencies before selling any historic federally owned site—such as Shelburne Glebe, which is listed on the register of federal and Virginia historic landmarks.

Under the law, the preservation agencies are supposed to be given a chance to recommend whether a historic property should be sold and, if so, what types of covenants should be placed on the property's title.

In last year's auction, federal marshals received a $4.1 million bid for Shelburne Glebe, a 734-acre secluded estate about 10 miles southwest of Leesburg. The two-story brick mansion had been the home of convicted drug kingpin Christopher F. Reckmeyer, who ran a nationwide narcotics distribution ring for 10 years.

Reckmeyer, a 36-year-old graduate of Langley High School in McLean, pleaded guilty in 1985 to running the operation, which brought nearly 300 tons of marijuana and hashish into the United States from Mexico, Colombia and Lebanon. He was sentenced to a 17-year term without the possibility of parole and is now in a federal prison in California.

Jubran A. Badra, the successful bidder, offered $4.1 million for property. Badra, who heads a Washington business brokerage and commercial real estate office, has not publicly said what he intends to do with the property, or even whether he purchased the estate for himself or an investor.

The Justice Department, through its U.S. Marshals Service, ordered the seized property to be sold at auction, a move that caught the attention of various real estate developers and speculators. Some potential buyers also saw Shelburne Glebe as a possible paradise for treasure hunters, given the millions of dollars worth of gems and cash that federal agents found after searching the house and dredging a 30-acre lake on the estate.

In a tour this week of the property, evidence of the hunt for drugs and valuables was still visible, particularly in the home's attic, where poorly patched walls gave a clue to where investigators thought they would find Reckmeyer's cache.

After the auction last year of the 18th century house and surrounding property, federal officials boasted that they had obtained more than $1 million above what they thought the property was worth.

"Uncle Sam is very happy," said U.S. Marshal Roger Ray afterward. "We made out pretty well, didn't we?"

But it wasn't until this summer that Justice officials found out that they had not followed federal law, despite auction brochures that proclaimed that the site was an historic landmark.

So, despite the supposed checks and balances to protect federally owned historic properties, people are still asking why the preservation law was not followed.

"I don't know that I have an answer to that question," said Kent Robinson of the U.S. Attorney's office.

"I'm not sure," said Brad Cates, director of the Justice Department's forfeiture division.

Kenneth Fulp, a spokesman for the U.S. Marshals Service, declined to acknowledge that a mistake was made. "You couldn't say someone goofed because the process is being implemented," said Fulp, whose agency ran the auction.

Preservationists, as well as some state and federal officials, said they are worried that selling the estate without some sort of restrictive covenant could lead to the eventual destruction of Shelburne Glebe. They also said development of the site could harm the Goose Creek Historic District, a rural 10,000-acre portion of central Loudoun that is listed on the National Register of Historic Places.

"There can be little doubt as to the historic significance of the Shelburne Glebe," said a recent letter sent to the Justice Department from Sen. John W. Warner (R-Va.) and Rep. Frank R. Wolf (R-Va.). The Virginia members of Congress "requested" that the department not settle the transaction until it complies with the historic preservation law.

"We feel very strongly that the property should be protected," said Calder Loth, senior architectural historian for the Virginia division of Historic Landmarks in Richmond, the state agency with which Justice should have consulted before auctioning off the estate.

Loth said he also did not know why Justice failed to follow the preservation law's provisions. "Normally, we do not go around reminding federal agencies what they are supposed to do. It's a federal agency's responsibility to be aware of the regulations. It just wasn't caught here," he said.

Loth's agency, as well as the federal Advisory Council on Historic Preservation, is now going over the estate to see what covenants, if any, should be mandated on the deed before the deal is actually settled. Loth said one possible covenant could be to place a restrictive easement on the property that would bar any housing development and ensure that the historic house is not leveled by the new owner.

"Or it could be less than that," Loth said. "It's up to Justice to determine what happens next. In most cases, the federal agency does want to conform to our recommendations. In this case, I don't know."

Fulp of the federal marshals office said his agency "intends to work" with the Virginia landmarks department "and comply with the Historic Preservation Act as it affects this property."

None of the parties involved could say when the issue would be resolved. One other potential problem was settled last summer when the federal appeals court in Richmond rejected a bid by Reckmeyer's wife, Nancy, to claim partial ownership of the property. She said she had no knowledge of her husband's drug activities.

In the end, the Justice Department has the authority to determine if any covenants will be written into the deal. Federal officials acknowledged, however, that such restrictive covenants could pose legal headaches because Badra did not know about any possible restrictive uses on the property.

"I'd rather not get into that. It would be inappropriate," Fulp said about the covenants or the potential legal problems.

In a county where fervent anti-growth sentiment has spawned such bumper stickers as "Don't Fairfax Loudoun," nearby residents said they are upset that the vast farmland on the estate could be transformed into a housing development.

"Residents are very disturbed about widespread development of this site," said William Brown, a nearby landowner leading the fight to protect the property.

Brown and others said their concerns about the future of the site have not been eased any by the strict silence of Badra.

"I will not comment on anything," Badra said this week. As a result, Shelburne Glebe's neighbors have been left to speculate on what Badra might do with the property.

Shelburne Glebe is believed to be the sole remaining glebe house in Northern Virginia, and once served as the home to George Washington's chaplain. By law, all glebe houses, which were colonial parish homes purchased with tax dollars, were sold to raise money for the poor after Thomas Jefferson's Statute of Religious Freedom became law in 1787.

But tenacious Anglican church members—in what became the first major headache the federal government would have in dealing with Shelburne Glebe—defiantly held onto the property for 38 years after passage of Jefferson's law.

"If we knew [Badra] wanted to farm it . . . I think we could work fairly easily with him," said Eleni Silverman, historic preservation specialist with the federal preservation agency. "But if he wants to develop it, that's where there is some concern. We just don't know what he's planning.

UNITED STATES GOVERNMENT
Memorandum

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

DATE:

FILE: ENF-4:CM:F:N:R:R: WR

TO : Commissioner of Customs
THROUGH: Deputy Commissioner

FROM : Acting Comptroller

SUBJECT: Seized Currency

This is to report on our progress in establishing new procedures for the inventory and reporting of seized currency. The following three steps were involved in establishing these procedures:

- The first step in this initiative was to create an Automated Seized Currency Inventory Tracking System. The tracking system has been programmed, tested, and was placed into production in April 1987. This automated system tracks a seized currency/monetary instrument case from initial seizure to final disposition. Miami and Los Angeles Districts were used as test sites, therefore, most of their cases are in the tracking system, and other Districts have begun to add their seizure cases. As of July 14, 1987, there were 449 seizure cases, for a total of $81,020,992.33, on the Automated Seized Currency Inventory Tracking System. The system generates a management report called the Seized Currency Summary Report which lists each open case, amounts involved, whether the seized currency/monetary instruments are evidentiary or non-evidentiary, and summarizes the information by District and National basis. (See Attachment A)

- The second step was to develop an alternative to depositing non-evidentiary seized currency/monetary instruments into interest-bearing commercial accounts for control purposes. This automated systems capability is now possible using existing ACS collection functions. Thus, non-evidentiary seized currency/monetary instruments can be deposited into a Treasury Receipt Account (Suspense, U.S. Customs Service Account Number 20x6875(06)), until there is a final court ruling or Justice Department decision on the seizure. The Customs Directive authorizing the use of a Treasury Receipt Account was published on July 9, 1987, as indicated below.

- The third step in this initiative was to develop a Directive to address the issue of seized currency. The Directive's purpose was to establish policy and assign responsibilities regarding the physical inventory and reporting requirements for seized currency/monetary instruments necessary to assure (1) a uniform review oversight and (2) that seized currency/monetary instruments are properly safeguarded, managed, and accounted for from initial seizure through final disposition. This Directive was issued on July 9, 1987. The Directive will be amended in the future to include the physical control of the seized currency/monetary instruments. When the amendment is completed, the revised Directive will instruct the field on all steps in the handling of a seized currency/monetary instrument case.

We will inform you in the future when further progress is made in the area of seized currency. It should be noted that the National Finance Center recently reported to the Seized Property Division of the Office of Logistics Management that as of July 14, 1987, 29 checks, for a total of $4,130,198.67, have been issued to state or local law enforcement agencies in connection with the seized currency asset sharing program. (See Attachment B)

William F. Riley

Attachments

UNITED STATES CUSTOMS SERVICE - ACS
SEIZED CURRENCY SUMMARY REPORT

Attachment A

SEIZURE NO.	SEIZED AMT	CURRENCY AMT	CHCKS/OTHR AMT	EVIDENTIARY AMT	NONEVIDENTIARY AMT	FORFEITED AMT	REFUNDED AMT	INT/OTHR AMT
[illegible]100039	31,000.00	31,000.00	0.00	31,000.00	0.00	0.00	0.00	0.00
[illegible]110042	95,129.37	95,129.37	0.00	95,129.37	0.00	0.00	0.00	0.00
[illegible]110121	24,322.00	24,322.00	0.00	24,322.00	0.00	0.00	0.00	0.00
[illegible]110124	37,414.59	37,414.59	0.00	37,414.59	0.00	0.00	0.00	0.00
[illegible]110130	36,262.48	36,262.48	0.00	0.00	36,262.48	0.00	0.00	0.00
DISTRICT 09	BUFFALO-NIAGARA FALLS NY							
TOTALS 5	224,128.44	224,128.44	0.00	187,865.96	36,262.48	0.00	0.00	0.00
[illegible]106723	556.00	556.00	0.00	556.00	0.00	0.00	0.00	0.00
[illegible]100260	6,000.00	6,000.00	0.00	6,000.00	0.00	0.00	0.00	0.00
[illegible]000>4	8,916.00	8,916.00	0.00	0.00	0.00	0.00	8,916.00	0.00
[illegible]00057	760,220.50	760,220.50	0.00	760,220.50	0.00	0.00	0.00	0.00
[illegible]100070	9,390.00	9,390.00	0.00	9,390.00	0.00	0.00	0.00	0.00
[illegible]100132	17,195.00	17,195.00	0.00	17,195.00	0.00	0.00	0.00	0.00
[illegible]100211	25,000.00	25,000.00	0.00	25,000.00	0.00	0.00	0.00	0.00
[illegible]100218	200.00	200.00	0.00	0.00	0.00	200.00	0.00	0.00
[illegible]100230	15,788.00	15,788.00	0.00	15,788.00	0.00	0.00	0.00	0.00
[illegible]100253	27,419.00	27,419.00	0.00	27,419.00	0.00	0.00	0.00	0.00
[illegible]100256	2,810.00	2,810.00	0.00	2,810.00	0.00	0.00	0.00	0.00
[illegible]200010	355,000.00	355,000.00	0.00	355,000.00	0.00	0.00	0.00	0.00
DISTRICT 10	NEW YORK, NY							
TOTALS 12	1,228,494.50	1,228,494.50	0.00	1,219,378.50	0.00	200.00	8,916.00	0.00
[illegible]200119	98,661.06	16,714.00	81,947.06	0.00	0.00	4,933.00	93,728.06	0.00
[illegible]200135	25,151.00	25,151.00	0.00	0.00	0.00	754.53	24,396.47	0.00
DISTRICT 20	NEW ORLEANS, LA							
TOTALS 2	123,812.06	41,865.00	81,947.06	0.00	0.00	5,687.53	118,124.53	0.00
[illegible]100818	596,000.00	596,000.00	0.00	596,000.00	0.00	0.00	0.00	0.00
[illegible]401148	15,212.00	15,212.00	0.00	15,212.00	0.00	0.00	0.00	0.00
[illegible]000a1	10,775.00	10,775.00	0.00	10,775.00	0.00	0.00	0.00	0.00
DISTRICT 25	SAN DIEGO, CA							
TOTALS 3	621,987.00	621,987.00	0.00	621,987.00	0.00	0.00	0.00	0.00
[illegible]400309	128,299.00	128,299.00	0.00	128,299.00	0.00	0.00	0.00	0.00
[illegible]400024	11,089.48	11,089.48	0.00	0.00	11,089.48	0.00	0.00	473.01

SEIZURE NO.	SEIZED AMT	CURRENCY AMT	CHCKS/OTHR AMT	EVIDENTIARY AMT	NONEVIDENTIARY AMT	FORFEITED AMT	REFUNDED AMT	INT/OTHR AMT
*A22A600219	21,000.00	21,000.00	0.00	0.00	21,000.00	0.00	0.00	11,001.96
*A22A600212	308,642.06	308,642.06	0.00	0.00	308,642.06	0.00	0.00	0.00
*A22A600216	217,327.97	217,327.97	0.00	0.00	217,327.97	0.00	0.00	0.00
*A22A600238	55,980.00	55,980.00	0.00	0.00	55,980.00	0.00	0.00	0.00
*A22A600333	15,965.50	15,965.50	0.00	0.00	15,965.50	0.00	0.00	0.00
*A22A600006	15,020.00	15,020.00	0.00	0.00	15,020.00	0.00	0.00	0.00
*A22A600012	12,278.00	12,278.00	0.00	0.00	12,278.00	0.00	0.00	0.00
DISTRICT 26	NOGALES, AZ							
TOTALS 9	785,602.01	785,602.01	0.00	128,295.00	657,303.01	0.00	0.00	11,474.97
*A27A603665	1,980.00	1,980.00	0.00	0.00	1,980.00	0.00	0.00	0.00
*A27A605143	696,186.00	696,186.00	0.00	0.00	696,186.00	0.00	0.00	0.00
*A27A605A22	29,700.00	29,700.00	0.00	0.00	29,700.00	0.00	0.00	0.00
*A27A606566	112,123.90	112,123.90	0.00	112,123.90	0.00	0.00	0.00	0.00
*A27A606571	822,950.00	822,950.00	0.00	0.00	822,950.00	0.00	0.00	0.00
*A27A606599	168,870.38	0.00	168,870.38	0.00	168,870.38	0.00	0.00	0.00
*A27A606601	425,377.00	425,377.00	0.00	0.00	425,377.00	0.00	0.00	0.00
*A27A606612	180,619.67	180,619.67	0.00	180,619.67	0.00	0.00	0.00	0.00
*A27A606624	62,500.00	62,500.00	0.00	0.00	62,500.00	0.00	0.00	0.00
*A27A606643	33,700.00	33,700.00	0.00	0.00	0.00	33,700.00	0.00	0.00
*A27A606644	12,850.00	12,850.00	0.00	0.00	0.00	12,850.00	0.00	0.00
*A27A606654	781,359.00	781,359.00	0.00	781,359.00	0.00	0.00	0.00	0.00
*A27A606655	249,940.00	249,940.00	0.00	249,940.00	0.00	0.00	0.00	0.00
*A27A606657	99,880.00	99,880.00	0.00	99,880.00	0.00	0.00	0.00	0.00
*A27A606668	29,535.00	29,535.00	0.00	0.00	0.00	29,535.00	0.00	0.00
*A27A605003	10,141.00	10,141.00	0.00	10,141.00	0.00	0.00	0.00	0.00
*A27A605004	19,810.00	19,810.00	0.00	19,810.00	0.00	0.00	0.00	0.00
*A27A605028	2,016.80	2,016.80	0.00	2,016.80	0.00	0.00	0.00	0.00
*A27A605067	7,564.00	7,564.00	0.00	6,213.00	0.00	1,351.00	0.00	0.00
*A27A605097	23,288.00	23,288.00	0.00	23,288.00	0.00	0.00	0.00	0.00
*A27A605099	222,120.00	222,120.00	0.00	0.00	0.00	227,931.35	0.00	5,811.35
*A27A605100	4,714.00	4,714.00	0.00	0.00	0.00	4,714.00	0.00	0.00
*A27A605114	42,510.00	42,510.00	0.00	19,000.00	0.00	23,510.00	0.00	0.00
*A27A605121	19,700.00	19,700.00	0.00	19,700.00	0.00	0.00	0.00	0.00
*A27A605127	83,800.00	0.00	83,800.00	58,900.00	0.00	24,900.00	0.00	0.00
*A27A605133	18,000.00	18,000.00	0.00	0.00	0.00	18,000.00	0.00	0.00
*A27A605135	997.00	997.00	0.00	997.00	0.00	0.00	0.00	0.00
*A27A605141	765,121.27	342,900.00	422,221.27	765,121.27	0.00	0.00	0.00	0.00
*A27A605143	93,400.00	93,400.00	0.00	93,400.00	0.00	0.00	0.00	0.00
*A27A605147	49,750.00	49,750.00	0.00	0.00	0.00	49,750.00	0.00	0.00
*A27A605153	17,000.00	17,000.00	0.00	0.00	0.00	17,000.00	0.00	0.00
*A27A605154	24,912.00	24,912.00	0.00	0.00	0.00	24,912.00	0.00	0.00

SEIZING NO.	SEIZED AMT	CURRENCY AMT	CHCKS/OTHR AMT	EVIDENTIARY AMT	NONEVIDENTIARY AMT	FORFEITED AMT	REFUNDED AMT	INT/OTHR AMT
4A2720A05163	930,659.00	930,659.00	0.00	0.00	930,659.00	0.00	0.00	0.00
4A2720A05167	1,255,000.00	1,255,000.00	0.00	0.00	1,255,000.00	0.00	0.00	0.00
4A2720A05165	254,054.00	254,054.00	0.00	254,054.00	0.00	0.00	0.00	0.00
4A2720A05169	1,037.00	1,037.00	0.00	1,037.00	0.00	0.00	0.00	0.00
4A2720A05170	4,313.00	1,543.00	2,770.00	4,313.00	0.00	0.00	0.00	0.00
4A2720A08485	1,201,402.00	1,201,402.00	0.00	0.00	1,201,402.00	0.00	0.00	0.00
*2720A00545	20,709.00	0.00	20,709.00	0.00	0.00	20,709.00	0.00	0.00
*2720A00555	571,093.00	571,093.00	0.00	571,093.00	0.00	0.00	0.00	0.00
*2720A00613	2,459.23	0.00	2,459.23	0.00	0.00	2,459.23	0.00	0.00
*2720A00616	73,000.00	73,000.00	0.00	73,000.00	0.00	0.00	0.00	0.00
*2720A00674	204,540.00	204,540.00	0.00	204,540.00	0.00	0.00	0.00	0.00
*2720A00675	53,520.00	53,520.00	0.00	53,520.00	0.00	0.00	0.00	0.00
*2720A00717	308,435.00	308,435.00	0.00	308,435.00	0.00	0.00	0.00	0.00
*2720A00720	280,660.00	280,660.00	0.00	280,660.00	0.00	0.00	0.00	0.00
*2720A00753	650,000.00	650,000.00	0.00	650,000.00	0.00	0.00	0.00	0.00
*2720A00763	42,000.00	42,000.00	0.00	0.00	0.00	42,000.00	0.00	0.00
*2720A00920	85,723.00	85,723.00	0.00	85,723.00	0.00	0.00	0.00	0.00
*2720A00951	49,488.00	49,488.00	0.00	49,488.00	0.00	0.00	0.00	0.00
*2720A00952	61,781.00	61,781.00	0.00	61,781.00	0.00	0.00	0.00	0.00
*2720A00961	95,789.00	1,789.00	93,000.00	95,789.00	0.00	0.00	0.00	0.00
*2720A00962	29,420.00	29,420.00	0.00	29,420.00	0.00	0.00	0.00	0.00
*2720A00965	231,780.00	231,780.00	0.00	231,780.00	0.00	0.00	0.00	0.00
*2720A00975	150,330.00	150,330.00	0.00	150,330.00	0.00	0.00	0.00	0.00
*2720A00985	404,960.00	404,960.00	0.00	404,960.00	0.00	0.00	0.00	0.00
*2720A00992	6,382.00	6,382.00	0.00	6,382.00	0.00	0.00	0.00	0.00
*2720A00993	264,156.00	264,156.00	0.00	264,156.00	0.00	0.00	0.00	0.00
*2720A00994	34,550.00	34,550.00	0.00	34,550.00	0.00	0.00	0.00	0.00
*2720A00995	3,403.00	3,403.00	0.00	3,403.00	0.00	0.00	0.00	0.00
*2720A00996	455,080.00	455,080.00	0.00	455,080.00	0.00	0.00	0.00	0.00
*2720A01021	100,000.00	100,000.00	0.00	100,000.00	0.00	0.00	0.00	0.00
*2720A01132	3,000.00	3,000.00	0.00	3,000.00	0.00	0.00	0.00	0.00
*2720A01161	183,055.54	0.00	183,055.54	183,055.54	0.00	0.00	0.00	0.00
*2720A01174	633,555.00	600,655.00	32,900.00	633,555.00	0.00	0.00	0.00	0.00
*2720A01180	33,721.00	28,660.00	5,061.00	33,721.00	0.00	0.00	0.00	0.00
*2720A01365	52,000.00	52,000.00	0.00	52,000.00	0.00	0.00	0.00	0.00
*2720A01380	537,471.00	537,471.00	0.00	537,471.00	0.00	0.00	0.00	0.00
*2722A00046	20,344.00	20,344.00	0.00	20,344.00	0.00	0.00	0.00	0.00
*2722A01201	59,477.00	59,477.00	0.00	59,477.00	0.00	0.00	0.00	0.00
*2722A00614	48,570.00	48,570.00	0.00	48,570.00	0.00	0.00	0.00	0.00
*2722A00215	41,100.00	500.00	40,600.00	0.00	29,000.00	0.00	4,000.00	8,100.00
*2722A00538	45,682.00	45,682.00	0.00	45,682.00	0.00	0.00	0.00	0.00
*2722A00685	36,310.00	32,310.00	4,000.00	36,310.00	0.00	0.00	0.00	0.00
*2722A00635	160,950.00	160,950.00	0.00	80,475.00	0.00	0.00	80,475.00	0.00
*2722A00697	12,859.00	12,859.00	0.00	0.00	12,859.00	0.00	0.00	0.00

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SEIZURE NO.	SEIZED AMT	CURRENCY AMT	CHCKS/OTHR AMT	EVIDENTIARY AMT	NONEVIDENTIARY AMT	FORFEITED AMT	REFUNDED AMT	INT/OTHR AMT
4A2772002010	350,000.00	350,000.00	0.00	350,000.00	0.00	0.00	0.00	0.00
4A2772002113	259,015.00	259,015.00	0.00	0.00	259,015.00	0.00	0.00	0.00
4A2772002114	75,500.00	75,500.00	0.00	75,500.00	0.00	0.00	0.00	0.00
4A2772002116	157,153.03	0.00	157,153.03	157,153.03	0.00	0.00	0.00	0.00
4A2772002123	53,235.00	53,235.00	0.00	0.00	53,235.00	0.00	0.00	0.00
4A2772002125	392,980.00	392,980.00	0.00	0.00	392,980.00	0.00	0.00	0.00
4A2772002130	763,286.00	763,286.00	0.00	763,286.00	0.00	0.00	0.00	0.00
4A2772002139	1,992,149.00	1,992,149.00	0.00	1,992,149.00	0.00	0.00	0.00	0.00
4A2772002146	817,136.00	817,136.00	0.00	796,264.00	0.00	0.00	20,874.00	0.00
4A2772002149	81,902.98	81,902.98	0.00	0.00	81,902.98	0.00	0.00	0.00
4A2772002150	168,259.00	168,259.00	0.00	0.00	0.00	168,259.00	0.00	0.00
4A2772002172	103,636.00	103,636.00	0.00	103,636.00	0.00	0.00	0.00	0.00
4A2772002174	109,796.00	109,796.00	0.00	109,796.00	0.00	0.00	0.00	0.00
4A2772002175	36,033.00	36,033.00	0.00	36,033.00	0.00	0.00	0.00	0.00
4A2772002188	83,500.00	3,500.00	80,000.00	0.00	83,500.00	0.00	0.00	0.00
4A2772002198	284,495.00	284,445.00	50.00	284,495.00	0.00	0.00	0.00	0.00
4A2772002235	38,542.00	38,492.00	50.00	38,542.00	0.00	0.00	0.00	0.00
4A2772002257	111,249.00	111,249.00	0.00	111,249.00	0.00	0.00	0.00	0.00
4A2772002285	25,000.00	12,100.00	12,900.00	25,000.00	0.00	0.00	0.00	0.00
4?772000017	35,294.82	34,294.82	1,000.00	0.00	35,294.82	0.00	0.00	0.00
4?772000133	427,255.00	427,255.00	0.00	427,255.00	0.00	0.00	0.00	0.00
4?772000257	1,956,905.00	1,956,905.00	0.00	1,956,905.00	0.00	0.00	0.00	0.00
4?772000271	58,910.00	58,910.00	0.00	58,910.00	0.00	0.00	0.00	0.00
4?772000288	69,092.00	69,092.00	0.00	69,092.00	0.00	0.00	0.00	0.00
4?772000646	25,272.00	25,272.00	0.00	25,272.00	0.00	0.00	0.00	0.00
4?772000655	10,002.00	10,002.00	0.00	10,002.00	0.00	0.00	0.00	0.00
4?772000720	12,000.00	12,000.00	0.00	12,000.00	0.00	0.00	0.00	0.00
4A2772006009	834,850.00	834,650.00	0.00	834,850.00	0.00	0.00	0.00	0.00
DISTRICT 27	LOS ANGELES, CA							
TOTALS 104	24,142,682.62	22,827,083.17	1,315,599.45	16,791,053.21	6,542,411.18	701,580.58	105,349.00	13,911.35
4?3A0100152	120,500.00	120,500.00	0.00	120,500.00	0.00	0.00	0.00	0.00
4A3A1900004	133,895.00	133,895.00	0.00	0.00	0.00	133,895.00	0.00	0.00
4?3A2900271	31,500.00	0.00	31,500.00	31,500.00	0.00	0.00	0.00	0.00
4?3A2900308	123,235.00	50,000.00	73,235.00	123,235.00	0.00	0.00	0.00	0.00
DISTRICT 30	SEATTLE, WA							
TOTALS 4	409,130.00	304,395.00	104,735.00	275,235.00	0.00	133,895.00	0.00	0.00
4?3A0100715	5,500.00	5,500.00	0.00	0.00	0.00	5,500.00	0.00	0.00
4?3A0501169	28,864.00	28,864.00	0.00	0.00	0.00	0.00	28,864.00	0.00

SEIZURE NO.	SEIZED AMT	CURRENCY AMT	CHCKS/OTHR AMT	EVIDENTIARY AMT	NONEVIDENTIARY AMT	FORFEITED AMT	REFUNDED AMT	INT/OTHR AMT
07320501172	21,401.00	21,401.00	0.00	0.00	0.00	0.00	21,401.00	0.00
07320501182	31,377.00	31,377.00	0.00	0.00	0.00	0.00	31,377.00	0.00
07320501204	28,129.00	28,129.00	0.00	0.00	0.00	0.00	28,129.00	0.00
07320501224	26,224.00	26,224.00	0.00	0.00	0.00	0.00	26,224.00	0.00
07320501234	50,713.00	50,313.00	400.00	0.00	0.00	0.00	50,713.00	0.00
07320501262	12,940.00	12,940.00	0.00	0.00	0.00	0.00	12,940.00	0.00
DISTRICT 32	HONOLULU, HI							
TOTALS 8	205,148.00	204,748.00	400.00	0.00	0.00	5,500.00	199,648.00	0.00
07440100200	8,400.00	8,400.00	0.00	8,400.00	0.00	0.00	0.00	0.00
07440100222	33,500.00	33,500.00	0.00	33,500.00	0.00	0.00	0.00	0.00
07440100226	2,924.05	2,924.05	0.00	2,924.05	0.00	0.00	0.00	0.00
07440100282	146,648.00	146,648.00	0.00	146,648.00	0.00	0.00	0.00	0.00
07440100286	16,324.00	16,324.00	0.00	16,324.00	0.00	0.00	0.00	0.00
07440100344	10,702.00	10,702.00	0.00	10,702.00	0.00	0.00	0.00	0.00
07440100393	43,810.00	43,810.00	0.00	43,810.00	0.00	0.00	0.00	0.00
07440100407	66,915.00	66,915.00	0.00	66,915.00	0.00	0.00	0.00	0.00
07440100464	53,195.00	53,195.00	0.00	53,195.00	0.00	0.00	0.00	0.00
07440100485	132,548.00	132,548.00	0.00	132,548.00	0.00	0.00	0.00	0.00
DISTRICT 46	NEWARK, NJ							
TOTALS 10	534,966.05	534,966.05	0.00	534,966.05	0.00	0.00	0.00	0.00
08470100773	62,032.00	62,032.00	0.00	62,032.00	0.00	0.00	0.00	0.00
08470100132	70,662.00	70,662.00	0.00	70,662.00	0.00	0.00	0.00	0.00
08470100927	75,000.00	75,600.00	0.00	75,000.00	0.00	0.00	0.00	0.00
08470101553	33,905.00	33,905.00	0.00	33,905.00	0.00	0.00	0.00	0.00
08470101571	149,620.00	149,620.00	0.00	149,620.00	0.00	0.00	0.00	0.00
08470102578	482,881.00	482,881.00	0.00	482,881.00	0.00	0.00	0.00	0.00
08470102579	469,150.00	469,150.00	0.00	469,150.00	0.00	0.00	0.00	0.00
08470103146	87,054.00	87,054.00	0.00	87,054.00	0.00	0.00	0.00	0.00
08470100441	56,200.00	56,200.00	0.00	56,200.00	0.00	0.00	0.00	0.00
08470100745	179,400.00	179,400.00	0.00	179,400.00	0.00	0.00	0.00	0.00
08470101071	50,556.00	50,556.00	0.00	50,556.00	0.00	0.00	0.00	0.00
08470101335	287,210.00	287,210.00	0.00	287,210.00	0.00	0.00	0.00	0.00
08470101577	188,950.00	186,950.00	2,000.00	188,950.00	0.00	0.00	0.00	0.00
08470101610	508,041.00	508,041.00	0.00	508,041.00	0.00	0.00	0.00	0.00
08470101611	583,389.00	583,389.00	0.00	583,389.00	0.00	0.00	0.00	0.00
08470101799	92,870.00	92,870.00	0.00	92,870.00	0.00	0.00	0.00	0.00
08470101888	950,200.00	950,200.00	0.00	950,200.00	0.00	0.00	0.00	0.00
08470101968	111,000.00	111,000.00	0.00	111,000.00	0.00	0.00	0.00	0.00

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04470102305	16,984.00	8,429.00	8,555.00	15,755.00	0.00	0.00	1,229.00	0.00
04470102596	242,740.00	242,740.00	0.00	242,740.00	0.00	0.00	0.00	0.00
04470102557	27,065.00	27,065.00	0.00	27,065.00	0.00	0.00	0.00	0.00
04470102598	35,250.00	35,250.00	0.00	35,250.00	0.00	0.00	0.00	0.00
04470103839	140,951.00	140,951.00	0.00	140,951.00	0.00	0.00	0.00	0.00
07470100056	30,021.00	30,021.00	0.00	30,021.00	0.00	0.00	0.00	0.00
07470100116	191,480.00	191,480.00	0.00	191,480.00	0.00	0.00	0.00	0.00
07470100184	111,585.00	111,585.00	0.00	111,585.00	0.00	0.00	0.00	0.00
07470100185	49,940.00	49,940.00	0.00	49,940.00	0.00	0.00	0.00	0.00
07470100270	72,328.00	72,328.00	0.00	72,328.00	0.00	0.00	0.00	0.00
07470100314	302,049.00	302,049.00	0.00	302,049.00	0.00	0.00	0.00	0.00
07470100315	300,698.00	300,698.00	0.00	300,698.00	0.00	0.00	0.00	0.00
07470100447	64,333.00	64,333.00	0.00	64,333.00	0.00	0.00	0.00	0.00
07470100416	87,667.00	87,667.00	0.00	87,667.00	0.00	0.00	0.00	0.00
07470100624	200,930.00	200,930.00	0.00	200,930.00	0.00	0.00	0.00	0.00
07470100784	42,676.00	42,676.00	0.00	42,676.00	0.00	0.00	0.00	0.00
07470100785	99,063.00	99,063.00	0.00	99,063.00	0.00	0.00	0.00	0.00
07470100801	21,105.00	21,105.00	0.00	21,105.00	0.00	0.00	0.00	0.00
07470100802	27,921.00	27,921.00	0.00	27,921.00	0.00	0.00	0.00	0.00
07470101029	999,970.00	599,576.00	0.00	999,970.00	0.00	0.00	0.00	0.00
07470101045	19,551.00	19,551.00	0.00	19,551.00	0.00	0.00	0.00	0.00
07470101046	36,735.00	36,735.00	0.00	36,735.00	0.00	0.00	0.00	0.00
07470101192	43,360.00	43,360.00	0.00	43,360.00	0.00	0.00	0.00	0.00
07470101211	16,100.00	16,100.00	0.00	16,100.00	0.00	0.00	0.00	0.00
07470101372	56,338.00	52,550.00	3,788.00	56,338.00	0.00	0.00	0.00	0.00
07470101399	52,450.00	52,450.00	0.00	52,450.00	0.00	0.00	0.00	0.00
07470101400	60,050.00	60,050.00	0.00	60,050.00	0.00	0.00	0.00	0.00
07470101476	34,800.00	34,800.00	0.00	34,800.00	0.00	0.00	0.00	0.00
07470101487	93,330.00	93,330.00	0.00	93,330.00	0.00	0.00	0.00	0.00
07470101519	25,826.00	25,826.00	0.00	25,826.00	0.00	0.00	0.00	0.00
07470101584	30,800.00	30,800.00	0.00	30,800.00	0.00	0.00	0.00	0.00
07470101599	90,292.00	90,292.00	0.00	90,292.00	0.00	0.00	0.00	0.00
07470101605	53,911.00	53,911.00	0.00	53,911.00	0.00	0.00	0.00	0.00
07470101653	10,400.00	10,400.00	0.00	10,400.00	0.00	0.00	0.00	0.00
07470101678	36,078.00	36,078.00	0.00	36,078.00	0.00	0.00	0.00	0.00
07470101715	33,318.00	33,318.00	0.00	33,318.00	0.00	0.00	0.00	0.00
07470101831	29,600.00	29,600.00	0.00	29,600.00	0.00	0.00	0.00	0.00
07470101932	39,192.00	39,192.00	0.00	39,192.00	0.00	0.00	0.00	0.00
07470101951	301,350.00	301,350.00	0.00	301,350.00	0.00	0.00	0.00	0.00
07470101932	31,730.00	31,730.00	0.00	31,730.00	0.00	0.00	0.00	0.00
07470101959	202,721.00	202,721.00	0.00	202,721.00	0.00	0.00	0.00	0.00
07470101974	42,649.00	42,649.00	0.00	42,649.00	0.00	0.00	0.00	0.00
07470102165	50,102.00	50,102.00	0.00	50,102.00	0.00	0.00	0.00	0.00
07470102176	20,042.00	20,042.00	0.00	19,700.00	0.00	0.00	342.00	0.00

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01470102254	248,737.89	243,767.64	4,970.25	248,737.89	0.00	0.00	0.00	0.00
01470102257	320.00	320.00	0.00	320.00	0.00	0.00	0.00	0.00
01470102259	5,267.00	5,267.00	0.00	5,267.00	0.00	0.00	0.00	0.00
01470102260	24,977.58	23,415.00	1,562.58	24,977.58	0.00	0.00	0.00	0.00
01470102262	5,350.00	5,350.00	0.00	5,350.00	0.00	0.00	0.00	0.00
01470102263	274,249.00	274,249.00	0.00	274,249.00	0.00	0.00	0.00	0.00
01470102264	11,206.05	11,081.00	125.05	11,206.05	0.00	0.00	0.00	0.00
01470102265	894.00	894.00	0.00	894.00	0.00	0.00	0.00	0.00
01470102266	532.80	532.80	0.00	532.80	0.00	0.00	0.00	0.00
01470102267	2,000.00	2,000.00	0.00	2,000.00	0.00	0.00	0.00	0.00
01470102268	48,820.00	48,820.00	0.00	48,820.00	0.00	0.00	0.00	0.00
01470102277	14,100.00	14,100.00	0.00	14,100.00	0.00	0.00	0.00	0.00
01470102279	16,155.00	16,155.00	0.00	16,155.00	0.00	0.00	0.00	0.00
01470102281	21,031.00	21,031.00	0.00	21,031.00	0.00	0.00	0.00	0.00
01470102293	65,569.00	65,569.00	0.00	65,569.00	0.00	0.00	0.00	0.00
01470102324	52,415.00	52,415.00	0.00	52,415.00	0.00	0.00	0.00	0.00
01470102373	26,828.00	26,828.00	0.00	26,828.00	0.00	0.00	0.00	0.00
01470102429	37,065.00	37,065.00	0.00	37,065.00	0.00	0.00	0.00	0.00
01470102445	33,150.00	33,150.00	0.00	33,150.00	0.00	0.00	0.00	0.00
01470102479	13,500.00	13,500.00	0.00	13,400.00	0.00	0.00	0.00	0.00
01470102498	224,056.00	224,056.00	0.00	224,056.00	0.00	0.00	0.00	0.00
01470102514	49,069.00	49,069.00	0.00	49,069.00	0.00	0.00	0.00	0.00
01470102535	30,441.00	30,441.00	0.00	30,441.00	0.00	0.00	0.00	0.00
01470102564	16,084.00	16,084.00	0.00	16,084.00	0.00	0.00	0.00	0.00
01470102584	26,722.00	26,722.00	0.00	26,722.00	0.00	0.00	0.00	0.00
01470102629	150,326.00	150,326.00	0.00	150,326.00	0.00	0.00	0.00	0.00
01470102669	34,000.00	34,000.00	0.00	34,000.00	0.00	0.00	0.00	0.00
01470102878	56,717.00	56,717.00	0.00	56,717.00	0.00	0.00	0.00	0.00
01470103085	21,225.00	21,225.00	0.00	21,225.00	0.00	0.00	0.00	0.00
01470103115	38,000.00	38,000.00	0.00	38,000.00	0.00	0.00	0.00	0.00
DISTRICT 47	JOHN F KENNEDY AIRPORT							
TOTALS 92	10,064,908.32	10,043,907.44	21,000.88	10,043,337.32	0.00	0.00	1,571.00	0.00
04420100284	35,435.00	35,435.00	0.00	35,435.00	0.00	0.00	0.00	0.00
04420100127	19,000.00	0.00	19,000.00	0.00	0.00	0.00	0.00	0.00
04420100201	3,099.40	3,099.44	0.00	0.00	0.00	0.00	0.00	0.00
04420100690	201,155.00	101,155.00	100,000.00	0.00	0.00	0.00	0.00	0.00
04420100697	47,500.00	47,500.00	0.00	0.00	0.00	0.00	0.00	0.00
04420100829	193,824.00	193,824.00	0.00	0.00	0.00	0.00	0.00	0.00
04420101114	224,590.00	224,590.00	0.00	0.00	0.00	0.00	0.00	0.00
04420120188	32,398.24	32,398.24	0.00	0.00	0.00	0.00	0.00	0.00
04420120201	552,210.00	552,210.00	0.00	0.00	0.00	0.00	0.00	0.00

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8A5280170708	140,906.00	130,666.00	10,040.00	0.00	0.00	0.00	0.00	0.00
8A5280100127	49,000.00	49,000.00	0.00	0.00	49,000.00	0.00	0.00	0.00
8A5280100201	7,099.00	7,099.00	0.00	0.00	0.00	3,099.00	0.00	4,000.00
8A5280100206	101,400.00	101,400.00	0.00	0.00	0.00	0.00	0.00	0.00
8A5280100209	2,421.00	2,421.00	0.00	0.00	0.00	0.00	0.00	0.00
8A5280100210	234,586.26	234,586.26	0.00	0.00	0.00	0.00	0.00	0.00
8A5280100211	1,055,510.00	990,510.00	10,500.00	0.00	0.00	0.00	0.00	0.00
8A5280100214	103,050.00	103,050.00	0.00	0.00	0.00	0.00	0.00	0.00
8A5280100215	79,163.00	79,163.00	0.00	0.00	0.00	79,163.00	0.00	0.00
8A5280100221	13,250.00	13,250.00	0.00	0.00	13,250.00	0.00	0.00	0.00
8A5280100243	37,000.00	37,000.00	0.00	0.00	37,000.00	0.00	0.00	0.00
8A5280100317	18,500.00	18,500.00	0.00	0.00	18,500.00	0.00	0.00	0.00
8A5280100358	45,546.00	45,546.00	0.00	0.00	45,546.00	0.00	0.00	0.00
8A5280100378	96,585.00	96,585.00	0.00	0.00	96,585.00	0.00	0.00	0.00
8A5280100392	15,300.00	15,300.00	0.00	0.00	15,300.00	0.00	0.00	0.00
8A5280100410	176,630.00	176,630.00	0.00	0.00	176,630.00	0.00	0.00	0.00
8A5280104005	20,300.00	20,300.00	0.00	0.00	0.00	0.00	0.00	0.00
8A5280120020	100,000.00	100,000.00	0.00	0.00	100,000.00	0.00	0.00	0.00
8A5280120089	104,626.00	104,626.00	0.00	0.00	104,626.00	0.00	0.00	0.00
8A5280120118	133,280.00	133,280.00	0.00	0.00	133,280.00	0.00	0.00	0.00
8A5280120139	177,271.00	177,271.00	0.00	0.00	177,271.00	0.00	0.00	0.00
8A5280120170	170,410.00	170,410.00	0.00	0.00	170,410.00	0.00	0.00	0.00
8A5280120171	20,024.00	20,024.00	0.00	0.00	20,024.00	0.00	0.00	0.00
8A5280100005	349,970.00	349,970.00	0.00	0.00	349,970.00	0.00	0.00	0.00
8A5280100044	185,208.00	185,208.00	0.00	0.00	185,208.00	0.00	0.00	0.00
8A5280100050	210,110.00	210,110.00	0.00	0.00	210,110.00	0.00	0.00	0.00
8A5280100051	801,400.00	336,400.00	465,000.00	0.00	801,400.00	0.00	0.00	0.00
8A5280100052	1,207,498.00	1,207,498.00	0.00	0.00	1,207,498.00	0.00	0.00	0.00
8A5280100054	921,200.00	921,200.00	0.00	0.00	921,200.00	0.00	0.00	0.00
8A5280100064	84,250.00	84,250.00	0.00	0.00	84,250.00	0.00	0.00	0.00
8A5280100076	41,000.00	35,000.00	6,000.00	0.00	41,000.00	0.00	0.00	0.00
8A5280100081	96,000.00	96,000.00	0.00	0.00	96,000.00	0.00	0.00	0.00
8A5280100091	2,106,124.00	2,106,124.00	0.00	0.00	2,106,124.00	0.00	0.00	0.00
8A5280100099	10,000.00	10,000.00	0.00	0.00	10,000.00	0.00	0.00	0.00
8A5280100116	6,860.00	6,860.00	0.00	0.00	6,860.00	0.00	0.00	0.00
8A5280100119	31,000.00	31,000.00	0.00	0.00	31,000.00	0.00	0.00	0.00
8A5280100126	200,000.00	200,000.00	0.00	0.00	200,000.00	0.00	0.00	0.00
8A5280100131	200,000.00	200,000.00	0.00	0.00	200,000.00	0.00	0.00	0.00
8A5280100146	2,732,366.00	2,732,366.00	0.00	0.00	2,732,366.00	0.00	0.00	0.00
8A5280100148	5,924.00	5,924.00	0.00	0.00	5,924.00	0.00	0.00	0.00
8A5280100149	106,125.00	106,125.00	0.00	0.00	106,125.00	0.00	0.00	0.00
8A5280100150	301,240.00	301,240.00	0.00	0.00	301,240.00	0.00	0.00	0.00
8A5280100154	35,739.00	35,739.00	0.00	0.00	35,739.00	0.00	0.00	0.00
8A5280100167	196,176.00	196,176.00	0.00	0.00	196,176.00	0.00	0.00	0.00

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8A520100168	145,626.00	145,626.00	0.00	0.00	145,626.00	0.00	0.00	0.00
8A520100188	384,400.00	384,400.00	0.00	0.00	384,400.00	0.00	0.00	0.00
8A520100192	320,428.82	320,428.82	0.00	0.00	320,428.82	0.00	0.00	0.00
8A520100201	1,000.00	1,000.00	0.00	0.00	1,000.00	0.00	0.00	0.00
8A520100209	299,950.00	299,950.00	0.00	0.00	299,950.00	0.00	0.00	0.00
8A520100221	203,220.00	203,220.00	0.00	0.00	203,220.00	0.00	0.00	0.00
8A520100233	199,910.00	199,910.00	0.00	0.00	199,910.00	0.00	0.00	0.00
8A520100248	10,612.00	10,612.00	0.00	0.00	10,612.00	0.00	0.00	0.00
8A520100249	163,210.00	163,210.00	0.00	0.00	163,210.00	0.00	0.00	0.00
8A520100252	343,770.00	343,770.00	0.00	0.00	343,770.00	0.00	0.00	0.00
8A520100261	9,331.00	9,331.00	0.00	0.00	9,331.00	0.00	0.00	0.00
8A520100268	289,139.00	289,139.00	0.00	0.00	289,139.00	0.00	0.00	0.00
8A520100277	415,022.00	415,022.00	0.00	0.00	415,022.00	0.00	0.00	0.00
8A520100323	44,460.00	44,460.00	0.00	0.00	44,460.00	0.00	0.00	0.00
8A520100327	439,750.00	439,750.00	0.00	0.00	439,750.00	0.00	0.00	0.00
8A520100343	15,591.00	15,591.00	0.00	0.00	15,591.00	0.00	0.00	0.00
8A520100344	20,000.00	20,000.00	0.00	0.00	20,000.00	0.00	0.00	0.00
8A520100349	15,005.00	15,005.00	0.00	0.00	15,005.00	0.00	0.00	0.00
8A520100359	106,030.00	106,030.00	0.00	0.00	106,030.00	0.00	0.00	0.00
8A520100363	526,855.00	526,855.00	0.00	0.00	526,855.00	0.00	0.00	0.00
8A520100364	108,950.00	108,950.00	0.00	0.00	108,950.00	0.00	0.00	0.00
8A520100371	452,850.00	452,850.00	0.00	0.00	452,850.00	0.00	0.00	0.00
8A520100372	54,010.00	54,010.00	0.00	0.00	54,010.00	0.00	0.00	0.00
8A520120015	2,000,128.00	2,000,128.00	0.00	0.00	2,000,128.00	0.00	0.00	0.00
8A520120036	334,159.00	334,159.00	0.00	0.00	334,159.00	0.00	0.00	0.00
8A520120062	299,980.00	299,980.00	0.00	0.00	299,980.00	0.00	0.00	0.00
8A520120068	199,780.00	199,780.00	0.00	0.00	199,780.00	0.00	0.00	0.00
8A520120081	103,850.00	103,850.00	0.00	0.00	103,850.00	0.00	0.00	0.00
8A520120086	170,000.00	170,000.00	0.00	0.00	170,000.00	0.00	0.00	0.00
8A520120092	200,000.00	200,000.00	0.00	0.00	200,000.00	0.00	0.00	0.00
8A520120095	494,218.00	494,218.00	0.00	0.00	494,218.00	0.00	0.00	0.00
8A520120097	223,550.00	223,550.00	0.00	223,550.00	0.00	0.00	0.00	0.00
8A520120098	389,500.00	280,000.00	109,500.00	0.00	389,500.00	0.00	0.00	0.00
8A520120117	500,000.00	500,000.00	0.00	0.00	500,000.00	0.00	0.00	0.00
8A520120118	389,950.00	389,950.00	0.00	0.00	389,950.00	0.00	0.00	0.00
8A520120122	33,443.00	33,443.00	0.00	0.00	33,443.00	0.00	0.00	0.00
8A520120127	13,100.00	13,100.00	0.00	0.00	13,100.00	0.00	0.00	0.00
8A520120140	286,130.00	286,130.00	0.00	0.00	286,130.00	0.00	0.00	0.00
8A520120142	31,507.00	31,507.00	0.00	0.00	31,507.00	0.00	0.00	0.00
8A520120163	221,790.00	221,790.00	0.00	0.00	221,790.00	0.00	0.00	0.00
8A520120164	24,148.00	24,148.00	0.00	0.00	24,148.00	0.00	0.00	0.00
8A520120167	50,271.00	50,271.00	0.00	0.00	50,271.00	0.00	0.00	0.00
8A520120170	10,243.00	10,243.00	0.00	0.00	10,243.00	0.00	0.00	0.00
8A520120176	329,600.00	329,600.00	0.00	0.00	329,600.00	0.00	0.00	0.00

SEIZURE NO.	SEIZED AMT	CURRENCY AMT	CHCKS/OTHR AMT	EVIDENTIARY AMT	NONEVIDENTIARY AMT	FORFEITED AMT	REFUNDED AMT	INT/OTHR AMT
*AA520120185	17,980.00	17,980.00	0.00	0.00	17,980.00	0.00	0.00	0.00
*AA520120186	11,695.00	11,695.00	0.00	0.00	11,695.00	0.00	0.00	0.00
*AA520120187	159,491.00	159,491.00	0.00	0.00	159,491.00	0.00	0.00	0.00
*AA520120208	52,771.00	52,771.00	0.00	0.00	52,771.00	0.00	0.00	0.00
*AA520120218	200,000.00	200,000.00	0.00	0.00	200,000.00	0.00	0.00	0.00
*AA520140013	500.00	500.00	0.00	0.00	500.00	0.00	0.00	0.00
*A7520100009	32,220.00	32,220.00	0.00	0.00	0.00	0.00	0.00	0.00
*A7520100015	181,575.00	181,575.00	0.00	0.00	0.00	0.00	0.00	0.00
*A7520100020	40,248.00	40,248.00	0.00	0.00	0.00	0.00	0.00	0.00
*A7520100024	3,000.00	3,000.00	0.00	0.00	0.00	0.00	0.00	0.00
*A7520100025	1,000.00	1,000.00	0.00	0.00	0.00	0.00	0.00	0.00
*A7520100026	1,000.00	1,000.00	0.00	0.00	0.00	0.00	0.00	0.00
*A7520100027	1,050.00	1,050.00	0.00	0.00	0.00	0.00	0.00	0.00
*A7520100028	1,065.00	1,065.00	0.00	0.00	0.00	0.00	0.00	0.00
*A7520100030	11,330.00	11,330.00	0.00	0.00	0.00	0.00	0.00	0.00
*A7520100031	22,500.00	22,500.00	0.00	0.00	0.00	0.00	0.00	0.00
*A7520100032	141,778.00	141,778.00	0.00	0.00	0.00	0.00	0.00	0.00
*A7520100033	60,000.00	60,000.00	0.00	0.00	0.00	0.00	0.00	0.00
*A7520100036	926,820.00	926,820.00	0.00	0.00	0.00	0.00	0.00	0.00
*A7520100061	156,920.00	156,920.00	0.00	0.00	0.00	0.00	0.00	0.00
*A7520100062	3,130.00	3,130.00	0.00	0.00	0.00	0.00	0.00	0.00
*A7520100065	147,000.00	147,000.00	0.00	0.00	0.00	0.00	0.00	0.00
*A7520100067	1,531.00	1,531.00	0.00	0.00	0.00	0.00	0.00	0.00
*A7520100068	473.00	473.00	0.00	0.00	0.00	0.00	0.00	0.00
*A7520100072	1,451.00	1,451.00	0.00	0.00	0.00	0.00	0.00	0.00
*A7520100075	50,215.00	50,215.00	0.00	0.00	0.00	0.00	0.00	0.00
*A7520100080	32,005.00	32,005.00	0.00	0.00	0.00	0.00	0.00	0.00
*A7520100081	201,400.00	201,400.00	0.00	0.00	0.00	0.00	0.00	0.00
*A7520100089	9,817.05	9,817.05	0.00	0.00	0.00	0.00	0.00	0.00
*A7520100108	800,465.00	800,465.00	0.00	0.00	0.00	0.00	0.00	0.00
*A7520100121	283,762.00	283,762.00	0.00	0.00	0.00	0.00	0.00	0.00
*A7520100122	14,620.00	14,620.00	0.00	0.00	0.00	0.00	0.00	0.00
*A7520100124	20,500.00	20,500.00	0.00	0.00	0.00	0.00	0.00	0.00
*A7520100127	1,153,028.00	1,153,028.00	0.00	0.00	0.00	0.00	0.00	0.00
*A7520100136	29,000.00	29,000.00	0.00	0.00	0.00	0.00	0.00	0.00
*A7520100153	124,980.00	124,980.00	0.00	0.00	124,980.00	0.00	0.00	0.00
*A7520100154	153,960.00	153,960.00	0.00	0.00	153,960.00	0.00	0.00	0.00
*A7520100158	56,790.00	56,790.00	0.00	0.00	56,790.00	0.00	0.00	0.00
*A7520100170	8,125.00	8,125.00	0.00	0.00	8,125.00	0.00	0.00	0.00
*A7520100171	37,146.45	37,146.45	0.00	0.00	37,146.45	0.00	0.00	0.00
*A7520100172	70,000.00	70,000.00	0.00	0.00	70,000.00	0.00	0.00	0.00
*A7520100184	739,450.00	739,450.00	0.00	0.00	739,450.00	0.00	0.00	0.00
*A7520100185	23,000.00	23,000.00	0.00	0.00	23,000.00	0.00	0.00	0.00
*A7520100186	11,900.00	11,900.00	0.00	0.00	11,900.00	0.00	0.00	0.00

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4752B100200	484,103.00	484,103.00	0.00	0.00	484,103.00	0.00	0.00	0.00
4752B100201	30,580.00	30,580.00	0.00	0.00	30,580.00	0.00	0.00	0.00
4752B102006	495,564.00	495,564.00	0.00	495,564.00	0.00	0.00	0.00	0.00
4752B102016	147,150.00	126,400.00	20,750.00	0.00	0.00	0.00	0.00	0.00
4752B102017	53,103.00	33,103.00	20,000.00	0.00	0.00	0.00	0.00	0.00
4752B102018	50,100.00	50,100.00	0.00	0.00	0.00	0.00	0.00	0.00
4752B102022	285,500.00	285,500.00	0.00	0.00	0.00	0.00	0.00	0.00
4752B102030	32,700.00	32,700.00	0.00	0.00	0.00	0.00	0.00	0.00
4752B102033	103,000.00	103,000.00	0.00	0.00	0.00	0.00	0.00	0.00
4752B102034	35,400.00	35,400.00	0.00	0.00	0.00	35,400.00	0.00	0.00
4752B102035	67,700.00	67,700.00	0.00	0.00	0.00	67,700.00	0.00	0.00
4752B102036	30,500.00	30,500.00	0.00	0.00	0.00	30,500.00	0.00	0.00
4752B102038	30,900.00	30,900.00	0.00	0.00	0.00	0.00	0.00	0.00
4752B102039	41,690.00	41,690.00	0.00	0.00	0.00	0.00	0.00	0.00
4752B102041	25,700.00	25,700.00	0.00	0.00	0.00	0.00	0.00	0.00
4752B102043	50,500.00	50,500.00	0.00	0.00	0.00	0.00	0.00	0.00
4752B102051	150,000.00	150,000.00	0.00	0.00	0.00	0.00	0.00	0.00
4752B102054	100,738.00	80,772.00	19,966.00	0.00	0.00	0.00	0.00	0.00
4752B102057	50,000.00	50,000.00	0.00	0.00	50,000.00	0.00	0.00	0.00
4752B102058	63,000.00	63,000.00	0.00	0.00	0.00	0.00	0.00	0.00
4752B102063	30,500.00	30,500.00	0.00	0.00	0.00	0.00	0.00	0.00
4752B102081	22,450.00	22,450.00	0.00	0.00	22,450.00	0.00	0.00	0.00
4752B102084	148,850.00	148,850.00	0.00	148,850.00	0.00	0.00	0.00	0.00
4752B102088	75,251.00	75,251.00	0.00	0.00	75,251.00	0.00	0.00	0.00
4752B102089	54,200.00	54,200.00	0.00	0.00	54,200.00	0.00	0.00	0.00
4752B102090	80,000.00	80,000.00	0.00	0.00	80,000.00	0.00	0.00	0.00
4752B104004	25,900.00	25,900.00	0.00	0.00	0.00	0.00	0.00	0.00
4752B300045	18,350.00	18,350.00	0.00	0.00	0.00	18,350.00	0.00	0.00
4752B300013	618.00	618.00	0.00	0.00	0.00	0.00	0.00	618.00
4752B300076	5,448,459.00	5,448,459.00	0.00	0.00	0.00	0.00	0.00	0.00
4752B300095	6,000.00	6,000.00	0.00	0.00	0.00	0.00	0.00	0.00
4752B300024	530,011.00	530,011.00	0.00	0.00	0.00	0.00	0.00	0.00
4752B300029	139,990.00	139,990.00	0.00	0.00	139,990.00	0.00	0.00	0.00
4752B300115	147,102.00	147,102.00	0.00	0.00	147,102.00	0.00	0.00	0.00
4752B300043	553,591.00	553,591.00	0.00	0.00	553,591.00	0.00	0.00	0.00
4752B300053	145,330.00	145,330.00	0.00	0.00	145,330.00	0.00	0.00	0.00
4752B300061	153,900.00	153,900.00	0.00	0.00	153,900.00	0.00	0.00	0.00
4752B400015	88,250.00	73,250.00	15,000.00	0.00	88,250.00	0.00	0.00	0.00
4752B401042	24,245.00	9,425.05	14,820.00	24,245.00	0.00	0.00	0.00	0.00
4752B400345	15,500.00	15,500.00	0.00	15,500.00	0.00	0.00	0.00	0.00
4752B400852	49,250.00	49,250.00	0.00	49,250.00	0.00	0.00	0.00	0.00
4752B401031	107,000.00	107,000.00	0.00	107,000.00	0.00	0.00	0.00	0.00
4752B400883	152,007.00	152,007.00	0.00	0.00	0.00	0.00	0.00	0.00
4752B400040	31,200.00	24,800.00	6,400.00	0.00	31,200.00	0.00	0.00	0.00

ACSR-SC-F13
NATIONAL
RANGE : ALL

UNITED STATES CUSTOMS SERVICE - ACS
SEIZED CURRENCY SUMMARY REPORT

DATE: 07/15/87
TIME: 08:29
PAGE: 12

SEIZURE NO.	SEIZED AMT	CURRENCY AMT	CHCKS/OTHR AMT	EVIDENTIARY AMT	NONEVIDENTIARY AMT	FORFEITED AMT	REFUNDED AMT	INT/OTHR AMT
04520A000043	250,000.00	250,000.00	0.00	0.00	250,000.00	0.00	0.00	0.00
04520A000406	296,000.00	296,000.00	0.00	0.00	296,000.00	0.00	0.00	0.00
04520A000602	206,229.75	3,395.00	202,834.75	0.00	206,229.75	0.00	0.00	0.00
04520A000626	70,000.00	0.00	70,000.00	0.00	70,000.00	0.00	0.00	0.00
07520A000017	34,503.00	34,503.00	0.00	0.00	0.00	0.00	0.00	0.00
07520A000197	40,480.00	35,500.00	4,980.00	0.00	0.00	0.00	0.00	0.00
07520A000278	54,923.00	54,923.00	0.00	0.00	0.00	0.00	0.00	0.00
07520A000279	27,452.00	27,452.00	0.00	0.00	0.00	0.00	0.00	0.00
07520A000280	41,800.00	41,800.00	0.00	0.00	0.00	0.00	0.00	0.00
07520A000351	29,249.00	29,249.00	0.00	0.00	29,249.00	0.00	0.00	0.00
07520A000470	70,114.00	70,114.00	0.00	0.00	70,114.00	0.00	0.00	0.00
07520A000539	10,373.36	10,373.36	0.00	0.00	10,373.36	0.00	0.00	0.00
04527100083	32,765.00	32,765.00	0.00	0.00	32,765.00	0.00	0.00	0.00
04527100194	40,472.00	40,472.00	0.00	0.00	40,472.00	0.00	0.00	0.00
07527100103	189,473.00	189,473.00	0.00	0.00	189,473.00	0.00	0.00	0.00
DISTRICT 52 MIAMI, FL								
TOTALS 200	42,680,133.33	41,530,942.67	1,094,790.75	1,095,394.00	26,554,940.38	234,212.00	0.00	4,618.00
DISTRICT 99 HQ REVENUE ACCOUNTING								
TOTALS 0	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
NATIONAL	1/			1/	1/	1/	1/	2/
TOTALS 449	81,020,992.33	78,348,019.28	2,618,473.14	30,921,516.04	33,790,917.05	1,881,875.11	433,608.53	30,004.32

1/ For the Miami District (District 52) and Los Angeles only, the column totals for evidentary, nonevidentary, forfeited and refunded amounts do not balance to the total seized amount. This is because some data has not been adjusted from the test information originally provided by Miami and Los Angeles FP&F.

~~System edits now preclude input of incomplete or unbalanded data.~~

NFC officials are working with Miami and Los Angeles to get the unbalanced cases adjusted using the new input edits.

2/ ~~This amount is earned in excess of the principle amount seized and is reported separately, is not~~ included in the total seized amount column.

Attachment B

Asset Sharing Payments
through July 14, 1987

Region	Number of Checks	Amount
Northeast	4	$ 105,875.00
Southeast	8	$ 475,170.00
Southwest	3	$1,985,412.60
Pacific	14	$1,563,741.07
TOTAL	29	$4,130,198.67

ORIGINATING OFFICE: CM:P:N:R:R

DISTRIBUTION: C25 (All Supv./Mgrs.)

POLICIES & PROCEDURES MANUAL

CUSTOMS DIRECTIVE

NUMBER: 5310-07

ISSUE DATE: JULY 9, 1987

SUBJECT: Seized Currency/Monetary Instruments Inventory And Reporting Procedures

1. PURPOSE

To establish policy and assign responsibility regarding the physical inventory and reporting requirements for seized currency/monetary instruments necessary to assure (1) a uniform review oversight and (2) that seized currency/monetary instruments are properly safeguarded, managed, and accounted for from initial seizure through final disposition.

2. BACKGROUND

Based on findings by the General Accounting Office concerning seized cash management procedures and policies Government-wide and within the Customs Service, substantive improvements in the control and management of seized currency/monetary instruments are warranted. The issues and concerns that have been identified include the need for (1) a policy within Customs which addresses the handling of seized currency/monetary instruments, (2) resolution of legal requirements involving evidentiary requirements that impede quick deposit of seized currency to interest bearing or government asset accounts, and (3) uniform requirements for reporting and managing seized currency/monetary instruments.

Improved management of this program is necessary because of the high vulnerability to fraud, waste, or abuse and to assure that currency/monetary instruments are placed in interest bearing or other appropriate accounts as soon as possible. Initially, a centralized inventory record of all seized currency/monetary instruments will be established within an Automated Commercial Systems (ACS) on-line Fines, Penalties and Forfeitures module.

A review of current and alternative deposit arrangements, including the use of a Treasury Deposit Account, has been accomplished. Based on the analysis of the available inventory record of seized currency/monetary instrument cases, current depositing procedures involving interest bearing accounts are being modified in order to improve cash management. The deposit procedure will require use of a Treasury Receipt Account in lieu of interest bearing commercial accounts.

Customs Form 3966 (11/86)

U.S. G.P.O.1987-491-101/60034

3. ACTION

The overall objective of the following actions are to provide for the safekeeping, proper management and accounting for seized currency/monetary instruments.

A. Immediate action is necessary to assure that all seized currency/monetary instruments are identified and recorded in the automated inventory system. All new activity and changes in status of each case should be recorded in the on-line system daily (but no less than weekly) by the District Director's designee. Since reports will be issued monthly which reflect the status of each case, all updates must be accomplished by the end of each month. This will provide a basis for more uniform management decisions regarding the storage and disposition of currency/monetary instruments.

B. The ACS function for inventory and reporting of seized currency/monetary instruments has been implemented. The input functions are part of the Fines, Penalties and Forfeiture module in ACS. However, the capability to use these functions will be available independent of the Fines, Penalties and Forfeiture module. Where field offices are not equipped with ACS terminals, the arrangement for input of seizure information should be developed by the local District Director or Special Agent-in-Charge.

C. Detailed instructions for using the applicable ACS functions are provided in this document. Questions concerning the ACS requirements and capabilities involving this initiative may be directed to Mr. Warren Ramsey of the Revenue Branch, National Finance Center on FTS 335-1380 or to Ms. Elsa Quiles-Archibold, Headquarters Fines, Penalties and Forfeiture on FTS 566-7063.

4. DEFINITIONS

The terms "currency" and "monetary instruments" are defined in 31 CFR 103.11 as amended:

A. Currency:

The coin and currency of the United States or of any other country, which circulate in and are customarily used and accepted as money in the country in which issued. It includes U.S. silver certificates, U.S. Notes and Federal Reserve Notes, but does not include bank checks or other negotiable instruments not customarily accepted as money.

B. Monetary Instruments:

Coin or currency of the United States or of any other country, travelers' checks, money orders, investment securities in bearer form or otherwise in such form that title thereto passes upon delivery, and negotiable instruments (except warehouse receipts or bills of lading) in bearer form or otherwise in such form that title thereto passes upon delivery. The term includes bank checks, travelers' checks, and money orders which are signed but on which the name of the payee has been omitted, but does not include bank checks, travelers' checks or money orders made payable to the order of a named person which have not been endorsed or which bear restrictive endorsements.

PROCESSING STANDARDS

A. Seized Currency/Monetary Instruments (Evidentiary)

1. Seized currency/monetary instruments must always be considered evidence until the Special Agent-in-Charge in conjunction with the U.S. Attorney expressly consents to treating such items as non-evidentiary. Seized currency/monetary instruments may be needed as evidence in either or both a criminal or civil (i.e., the forfeiture) case. The rules governing the storage of evidence must be followed.

2. As soon as possible following seizure, the investigating Special Agent must consult with the local U.S. Attorney's office to establish the seized currency/monetary instruments as either evidentiary or non-evidentiary. This determination should be obtained within 60 days after seizure, or 10 days after indictment (whichever occurs first).

3. The case agent is responsible for immediately advising the District Director when currency/monetary instruments are no longer needed as evidence.

B. Seized Currency/Monetary Instruments (Non-Evidentiary)

1. All seized currency/monetary instruments identified by the Special Agent-in-Charge in conjunction with the U.S. Attorney as non-evidentiary should be deposited no later than 10 work days after [illegible] if it has been determined that preliminary release, as described on Page SCP-7 of the Fines, Penalties and Forfeitures Handbook, is inappropriate. Notification by the Fines, Penalties and Forfeiture Officer must be issued to the seized property custodian in time to comply with the 10 working day deposit standard. The exception to this rule is seizure cases where the monetary instrument is of an investment or marketable nature, i.e., securities and other similar items. Such monetary instruments should only be deposited with the permission of the violator through a stipulation agreement which specifically permits deposit as described in 5.B.2. If such a stipulation cannot be obtained, it should be treated as evidentiary and handled as described above or through any other special arrangement established by the U. S. Attorney or Regional Counsel.

2. The seized property custodian is responsible for assuring the deposit is made timely. The collection class code for this purpose is 731 (Suspense, U.S. Customs Service Account Number 20X5075(06)). The cash receipt should cite the violator's name and the seizure case number. [CAUTION: When the cashier inputs this cash receipt collection into ACS, the seizure number, without dashes, must be entered in the reference field.] This transaction will appear as class code 073 on the collection reports and the Budget Clearing Account report. It should be noted that copies (front and back) of all negotiable checks in bearer form should be maintained in the case record.

C. Forfeited Currency/Monetary Instruments.

With this directive a new policy is being established regarding the deposit of forfeited currency/monetary instruments. The new policy provides for the deposit of forfeited currency/monetary instruments into the collection class code 731 (Suspense, U.S. Customs Service Account Number 20X6875(06)) so that any appropriate investigative or administrative expenses and claims by federal, state, or local agencies to share in seizure proceeds can be liquidated prior to transfer to the Customs Forfeiture Fund.

1. Upon receiving forfeiture notification, the Fines, Penalties and Forfeitures Office should proceed as follows:

   a. If the forfeited seized currency/monetary instruments are being held as evidence they should be deposited into collection class code 731 (Suspense, U.S. Customs Service Account Number 20X6875(06)), using the collection and deposit processing procedures stated in 5.B.2. Deposit should be accomplished within 10 working days from formal notification of completion of forfeiture action only if the U.S. Attorney has declared that the forfeited currency is no longer needed as evidence. Notification by the Fines, Penalties and Forfeiture Officer must be issued to the seized property custodian in time to comply with the 10 working day deposit standard.

   b. If the currency/monetary instruments were non-evidentiary and being held in safekeeping because a required stipulation agreement (for monetary instruments of an investment or marketable nature, see 5.B.1.), could not be obtained, they should be processed in accordance with 5.B.2. after converting to cash.

   c. If the seized currency/monetary instruments were classified as non-evidentiary and had been previously deposited into collection class code 731 (Suspense, U.S. Customs Service Account Number 20X6875(06)), (see 5.B.), follow the procedures explained in 5.C.4.

2. The Office of Enforcement is responsible for notifying the Fines, Penalties and Forfeiture Office of any pending claims from federal, state, or local agencies to share in the proceeds. They are also responsible for notifying that office within 10 work days after a claim for sharing with a federal, state, or local law enforcement agency is approved.

3. Any expenses incurred directly relating to the seizure or forfeiture of currency/monetary instruments should be reported to the National Finance Center at the address stated in 5.C.4b. The method for accumulating and transmitting this information is outlined in Customs Directive 5230-05. After the National Finance Center reviews the documentation in the forfeited seizure case, all applicable expenses which were originally charged to the Salaries and Expense Appropriation will be reimbursed from the Suspense Account (20X6875(06)).

4. The Fines, Penalties and Forfeiture Office should notify the National Finance Center of the forfeiture action by memorandum including supporting documentation, immediately after deposit. Supporting documents include the following: Notice of Seizure, forfeiture order, CF 5104 (Cash Receipt), and CF 151 (Search, Arrest and Seizure Report). If the CF 151 information is available in the Fines, Penalties and Forfeiture Automated Systems, no hard copy of the document should be sent to the National Finance Center.

   a. In addition, the National Finance Center must be provided information on claims for sharing with federal, state, and local law enforcement agencies. This information should be provided along with the above or immediately after the claim is approved. The information required is claimant's name, how checks are to be addressed, amounts involved, seizure number, and copies of the approved claim documentation, i.e., District Director copy of Disposition Order, Application for Transfer of Federally Forfeited Property, claim recommendation of the local Special Agent-in-Charge through the Assistant Regional Commissioner (Enforcement) to Assistant Commissioner (Office of Enforcement), and claim approval by the Assistant Commissioner (Office of Enforcement) or the Commissioner.

b. The National Finance Center address for the purpose of forfeiture notification, asset sharing claims, and direct expense reporting is as follows:

U.S. Customs Service
National Finance Center
ATTN: Seized Currency Reporting
P.O. Box 68901
Indianapolis, IN 46268-0901

5. The remaining forfeited balance (forfeited seizure amount less claims and any direct expenses relating to the forfeited seizure cases) will be transferred to the Forfeiture Fund.

D. Old Seizure Cases

The above procedures relate to seizure cases processed after the date of this directive. The following procedures relate to cases in inventory when this directive is issued.

1. Each seizure case where the seized currency/monetary instruments were determined to be evidentiary should be reviewed and their status reaffirmed with the U.S. Attorney. The Department of Justice has changed its criteria for considering seized currency/monetary instruments as evidentiary. The Department of Justice has notified all U.S. Attorneys that (1) where appropriate, photographs or videotapes of the seized currency should be taken for later use in court as evidence, (2) retention of currency will be permitted when retention of that currency, or a portion thereof, serves a significant independent, tangible, evidentiary purpose due to, for example, the presence of fingerprints, packaging in an incriminating fashion, or the existence of a traceable amount of narcotic residue on the bills, and (3) to the extent practical, negotiable instruments and foreign currency should be considered non-evidentiary. Copies of all negotiable checks in bearer form should be maintained in the case records.

a. If the seized currency/monetary instruments are still evidentiary, follow the procedures in 5.A.

b. If the seized currency/monetary instruments are non-evidentiary, follow the procedures in 5.B.

2. Seizure cases previously determined to be non-evidentiary should be handled as follows:

a. If the violator did not sign a stipulation to permit deposit into interest bearing commercial accounts, those funds should now be deposited into collection class code 731 (Suspense, U.S. Customs Service Account Number 20X6875(06)) in accordance with 5.B.2. above. The exception to this rule is seizure cases where the monetary instrument is of an investment or marketable nature, i.e., securities and other similar items. Such monetary instruments should only be deposited with the permission of the violator through a stipulation agreement.

b. Cases involving seized currency/monetary instruments deposited in interest bearing accounts should be reviewed to determine if action can be legally taken to terminate the current arrangement. Each case should be submitted to Regional Counsel for review. Funds that must remain in interest bearing accounts must be tracked in the inventory and reporting system until final disposition. At that time, the funds must be deposited following the applicable procedure described above.

6. FINES, PENALTIES, AND FORFEITURES AUTOMATED INVENTORY TRACKING SYSTEM

An on-line ACS capability has been developed as part of the Fines, Penalties, and Forfeitures module. The inventory tracking system functions YAMA and YAQA should be used to establish and update all seizures involving currency/monetary instruments. Specific instructions on the use of the applicable ACS functions and related screen formats are contained in Attachments A, B and C.

7. RESPONSIBILITIES

A. District Directors:

1. Each District Director is responsible for managing and controlling their seized currency/monetary instruments as prescribed in this Directive and other applicable guidelines. Special action should be taken to assure that the status of seized currency/monetary instruments cases are updated in ACS timely, and that where warranted deposits are made to interest bearing (old cases only) or government deposit accounts as currently required.

2. The District Director should assign specific personnel to be responsible for establishing the initial data base and inputting future changes in ACS for seized currency tracking. Each individual (including telephone number) assigned this responsibility, and any future changes in assignment should be reported in writing to the National Finance Center, Revenue Branch, ATTN: Seized Currency Reporting, P.O. Box 68901, Indianapolis, Indiana 46268-0901. Initial written notification must be accomplished within 10 days after receiving this directive. Thereafter, each time the responsibility changes, the National Finance Center should be notified immediately.

3. The District Director should coordinate the payment of approved asset sharing claims to federal, state or local law enforcement agencies with the Special Agent-in-Charge.

B. Special Agents-in-Charge:

1. The Special Agents-in-Charge must review at least monthly open seized currency/monetary instruments cases under their jurisdiction and advise the respective Fines, Penalties and Forfeitures Officer of any changes in status that would warrant conversion and/or deposit of seized amounts into a government account.

2. The Special Agent-in-Charge must notify the respective Fines, Penalties and Forfeiture Office as soon as possible in those instances where Federal forfeiture is discontinued in favor of state or local forfeiture proceedings.

C. National Finance Center:

The Revenue Branch of the National Finance Center is responsible for (1) monitoring the reported status of seized cash, (2) taking and encouraging such steps as are necessary to expedite the deposit of non-evidentiary seized cash into appropriate asset accounts to the maximum extent possible, (3) analyzing reports on completed actions and follow-up with District officials to assure that seized currency inventory files in ACS are updated on a timely and regular basis, (4) follow-up with District officials to assure that forfeited currency/monetary instruments are deposited to the Customs Suspense Account as soon as possible following the final forfeiture actions, (5) reviewing all requests for transfers to the Forfeiture Fund to assure that no claims for sharing the proceeds with a federal, state or local law enforcement agency are pending, and (6) finalizing all accounting transactions (i.e., issuing checks to local law enforcement agencies, applying reimbursements to Customs Salaries and Expense Appropriation, and transferring appropriate amounts to the Customs Forfeiture Fund).

8. SUPERSEDED MATERIAL

This supersedes Customs Directive 5310-04 dated March 5, 1987. Also superseded is Change No. 1, dated July 11, 1983, to the Fines Penalties and Forfeiture Handbook, HB 4400-01, April 1979 Revision, insofar as it relates to the deposit of cash, travelers' checks and negotiable instruments in bearer form into interest bearing commercial accounts. Said Change was incorporated into the April 1986 Revision of HB 4400-01 as Appendix A, Monetary Instrument Section.

9. EFFECTIVE DATE

This directive is effective upon publication.

Acting Comptroller

Attachments

Attachment A
CD 5310-07, July 9, 1987

FP&F AUTOMATED INVENTORY TRACKING SYSTEM
OPERATING INSTRUCTIONS

* Please note that for ports with system assigned seizure numbers, to obtain a system assigned seizure number the user must complete the FFAA master screen, the FFCA local violator screen when appropriate, and the F12 seizure case tracking screen. Once the case has been added to the database, clear the screen, input YAMA and the case number (FYDDPPSEQ#) and enter.

For ports with manually assigned seizure numbers, the user must complete the FFAA and subsequent screens prior to accessing the YAMA function code.

A. Using The Master Screen-Currency Tracking System-YAMA

Data Elements (Note YAMA Screen Format - Attachment B)

1. Seizures Number:

   If the seizure number is not system supplied (for ports with manually assigned seizure and penalty/liquidated damage numbers), enter the last five digits of the new seizure number. For ports with system assigned seizure numbers the cursor will skip this field. This seizure number is not to be confused with the Office of Enforcement case number.

2. Status:

   System supplied.

3. Response Period:

   System supplied.

4. Input Date:

   System supplied.

5. Violator Name:

If the violator is an individual, enter last, first, middle name. (Examples: Doe, John Robert; Smith Jr., Donald R.; Jones III, Reginald Franklin). If the violator is a business, enter the business name in its usual order. DO NOT USE COMMAS IN A BUSINESS NAME. (Examples; United Industries Inc.; Kamerow Cunningham Davis & Huber). This screen links to the FFC record screen, "FP&F VIOLATOR RECORD MAINTENANCE FORM" and establishes a local violator file which will prompt the user to complete the data elements, if no record exists. If there are multiple violators, the names should be entered in the comments field.

6. Violator ID:

For first time violators enter social security or employer identification (company) number with dashes (e.g. 111-22-333). If unknown, leave blank.

7. Violation:

Enter seizure statute with no spaces. (Example 31USC5317). The three digit number which represents the primary violation in the Fines, Penalties and Forfeitures module may be used in place of the complete citation as a code for completing the "violation" field on the "YAMA" screen. A complete listing is located in the ACS Users Guide. (Example: 31USC5317 is code 204).

8. Initial Seizure Amount:

Enter the value/amount of monetary instruments seized in U.S. Dollars. If the amount is an even amount no decimal point is necessary. If there is a fraction of a dollar, use a decimal point to indicate cents. (Example 21000 or 87457.21). The system will default to an even dollar amount if no fraction of one dollar is provided. Should not include any counterfeit currency.

9. Seizure Date:

Date seizure was effected. (MMDDYY)

Attachment A
CD 5310-07, July 9, 1987

FP&F AUTOMATED INVENTORY TRACKING SYSTEM
OPERATING INSTRUCTIONS

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2. Status:

   System supplied.

3. Response Period:

   System supplied.

4. Input Date:

   System supplied.

5. Violator Name:

If the violator is an individual, enter last, first, middle name. (Examples: Doe, John Robert; Smith Jr., Donald R.; Jones III, Reginald Franklin). If the violator is a business, enter the business name in its usual order. DO NOT USE COMMAS IN A BUSINESS NAME. (Examples; United Industries Inc.; Kamerow Cunningham Davis & Huber). This screen links to the FFC record screen, "FP&F VIOLATOR RECORD MAINTENANCE FORM" and establishes a local violator file which will prompt the user to complete the data elements, if no record exists. If there are multiple violators, the names should be entered in the comments field.

6. Violator ID:

For first time violators enter social security or employer identification (company) number with dashes (e.g. 111-22-333). If unknown, leave blank.

7. Violation:

Enter seizure statute with no spaces. (Example 31USC5317). The three digit number which represents the primary violation in the Fines, Penalties and Forfeitures module may be used in place of the complete citation as a code for completing the "violation" field on the "YAMA" screen. A complete listing is located in the ACS Users Guide. (Example: 31USC5317 is code 204).

8. Initial Seizure Amount:

Enter the value/amount of monetary instruments seized in U.S. Dollars. If the amount is an even amount no decimal point is necessary. If there is a fraction of a dollar, use a decimal point to indicate cents. (Example 21000 or 87457.21). The system will default to an even dollar amount if no fraction of one dollar is provided. Should not include any counterfeit currency.

9. Seizure Date:

Date seizure was effected. (MMDDYY)

10. Type(s) of Monetary Instrument:

Enter one or more of the four types by inputting the number preceding the choice(s).

1 U.S. CURR - United States Currency
2 FOREIGN CURR - Foreign currency
3 CHECKS - Travelers checks, other negotiable checks
4 OTHER - Any other type of monetary instrument (specify type in comments field)

11. Exchange Rate: (XCHG RATE(#/$))

Enter the exchange rate in effect at the date of seizure. If more than one type of foreign currency is seized enter the exchange rate of the largest amount of foreign currency. The other exchange rates and types of foreign currency should be entered in the comments field.

12. Amount Currency Seized:

Follow instructions for field number 8.

13. Amount of Checks and Other:

Enter the value in U.S. Dollars. Enter amount as per instructions for field number 8.

NOTE: The amount of currency plus the amount of checks and other should equal the seizure amount.

14. Seizure Categories:

The most recent transaction or information should be entered. Records of the previous entries will be retained in the archive files of the system.

a. EVIDENTIARY - Monetary instruments held as evidence.

b. NON-EVIDENTIARY - Monetary instruments that the U.S. Attorney has determined are no longer needed to be held as evidence.

c. FORFEITED - Monetary instruments forfeited to the Government (enter amount if only a portion).

d. REFUNDED - Monetary instruments refunded to the violator.

e. EARNED INTEREST - Interest earned on seized monetary instruments. This data should be input by the Fines, Penalties and Forfeiture Office on a monthly basis based on information provided by the banking or financial institution.

f. OTHER

NOTE: The total of the amounts in the evidentiary, non-evidentiary, forfeited, and refunded blanks should equal the seizure amount.

15. Cash Receipt (C/R #):

Enter the Cash Receipt (CF 5104) number. The most recent cash receipt number should be input. Records of all previous transactions entered will be retained in the archive files for each respective seizure number.

16. Location (Bank, Acct #, Dist Vault, Etc.):

This is a free form block. Enter pertinent information regarding the location of seized monetary instruments.

a. Bank - The name of the institution where monetary instruments are stored or deposited.

b. Account Number - The banking institution account number relating to this seizure.

c. District Vault - If stored in the District Vault, indicate location.

d. Other - Any other pertinent data regarding the location or condition of the seizure.

17. Comments:

This is a free form field. (Enter comments regarding the seizure, e.g., type of monetary instrument seized; claims by a Federal, state or local law enforcement agency, date claim approved, and amount of the claim, expenses of seizure (including investigative costs or the proceedings of forfeiture), as stated in Customs Directive, Number 5230-05; etc.)

Other YAM Functions

1. YAMC - Allows user to change any data on the seizure case with the exception of the status code and the violator ID. A future systems enhancement will allow the violator ID to be changed by using this function.

2. YAMS - See

3. YAML - Browse

   Locate Keys
   1/ = Seizure Number
   2/ = Violator ID
   7/ = Violation/Seizure Number
   9/ = District, Port, Fiscal Year, Control Number

B. Using The Currency Tracking Update Maintenance System - YAQA

Data Elements (Note YAQA Screen Format - Attachment C)

1. Seizure Number:

   System supplied.

2. Status Record Number:

   This is a three-digit number assigned by the system with each addition to the YAQ file. 001 is the first record number for the first action taken on a case, 002 for the next action, etc.

3. Violation:

   System supplied.

4. Violator I.D.:

   System supplied.

5. Violator Name:

   System supplied.

6. Status Code:

   Enter appropriate four-digit numerical status. Complete list of codes is available on-line by requesting the FFF1 1/ function, 9000 series. Unlike the FFB file, the YAQ file will accept the repetition of a status code for more than one action.

7. Response Period:

System supplied.

8. Effective Date:

If no other date is input by the user, system will supply date input was effected.

9. Seized Amount:

System supplied. If differs to the amount entered in the yama screen, keyover new amount.. Follow instructions for field number 8, YAMA screen. Should not include any counterfeit currency.

10. Case Amount:

Follow instructions for field number 9.

11. Checks, Other Amounts:

Enter the value in U.S. Dollars. Follow instructions for field number 9.

NOTE: The cash amount plus checks, other amount must equal the seized amount.

12. Type Monetary Instruments:

System supplied.

13. Seizure categories:

Description of categories are found in item 14, YAMA system definitions. Unlike the YAMC function where the user must perform amount calculations and keyover applicable amounts, on the YAQA screen the user can also enter a plus sign (+) or a minus sign (-) before the amounts to be added or subtracted. For example, $10,000 was non-evidentiary in the file and after the deposit to the suspense account, $550 was discovered to be counterfeit by the depositary. User will key in - and 550 in the non-evidentiary amount field, and press "enter". System will calculate amounts and supply a total of $9,450. However, in the Earned Interest field, user must manually insert data following definitions as per item 14(e), YAMA system instructions.

Attachment C
CD 5310-07, July 9, 1987

FP&F AUTOMATED INVENTORY TRACKING SYSTEM
SCREEN FORMAT FOR UPDATING A SEIZURE CASE

YAQA

U.S. CUSTOMS SERVICE SEIZED CURRENCY TRACKING SYSTEM

SEIZURE NO.: STATUS REC NO: VIOLATION:_____
VIOLATOR ID: _____ VIOLATOR NAME:_____

STATUS CODE: ___
RESPONSE PD: __ EFFECTIVE DATE: _____(MMDDYY)
SEIZED AMT: _____ CASH AMT: _____ CHK,OTHER AMT: _____
TYPE MONETARY INSTRUMENT: _ _ _ _ (1=US CURR 2=FORN CURR 3=CHECKS 4=OTHER)

SEIZURE CATAGORIES	AMOUNT	C/R #	LOCATION (BANK,ACCT#,DIST VAULT,ETC.)
EVIDENTIARY :	_____		_____
NON-EVIDENTIARY:	_____	_____	_____
FORFEITED :	_____	_____	_____
REFUNDED :	_____		_____
EARNED INTEREST:	_____		_____
OTHER :	_____		_____

COMMENTS : _____
_____
_____

ENTER=PROCEED PF1=CANCEL PF3=CASELOC PF4=NEWSTAT PF7=PREV PF8=NEXT

CPPF7201
CMKF7201

IN THE
UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 86-5034

UNITED STATES OF AMERICA,

Appellee,

v.

NANCY RECKMEYER,

Appellant.

On Appeal From the United States District Court
For the Eastern District of Virginia
Alexandria Division

BRIEF FOR THE UNITED STATES

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United States Attorney
Eastern District of Virginia

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IN THE

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

No. 86-5034

UNITED STATES OF AMERICA,

Appellee,

v.

NANCY RECKMEYER,

Appellant.

On Appeal From the United States District Court
For the Eastern District of Virginia
Alexandria Division

QUESTIONS PRESENTED

---

1. Whether the District Court properly ordered forfeiture of real property which was owned jointly by the appellant and her drug trafficker husband when the property was purchased with drug proceeds.

2. Whether the District Court properly denied appellant's petition for relief from forfeiture when her only interest in the property was derived from her husband's transferred drug proceeds.

STATEMENT OF THE CASE

On January 9, 1985, Christopher Frederick Reckmeyer, husband of the appellant, Nancy Reckmeyer, was indicted along with 25 others for operating a massive, nation-wide marijuana distribution organization. Count II of the indictment charged Christopher Reckmeyer with engaging in a Continuing Criminal Enterprise, in violation of 21 U.S.C. §848. That count also sought forfeiture of certain real property allegedly the proceeds of the criminal enterprise. (J.App. 97-107). 1/

On March 14, 1985 Christopher Reckmeyer pleaded guilty to Count II, among other charges. Although not contained in the appendix for the present case, those plea proceedings previously have been the subject of an appeal to this Court. See United States v. Reckmeyer, 786 F.2d 1216 (4th Cir. 1986). As part of his plea, Reckmeyer agreed on April 26, 1985 to forfeit all the assets referred to in Count II. During the course of his plea proceeding, Reckmeyer conceded that he had insignificant legitimate income during the course of the marijuana conspiracy, while deriving at least three million dollars in profits from his drug operation. Based on those factual admissions, the District Court accepted the plea and the forfeiture agreement. The Court of Appeals held that these factual admissions provided a sufficient factual basis for the forfeiture of Reckmeyer's real property. Id. at 1218-22.

1/ "J. App." references are to the joint appendix. "Br." references are to appellant's brief.

On May 17, 1985, Christopher Reckmeyer was sentenced. The District Court ordered forfeiture of his real property at that time. (J.App. 160-168).

On July 17, 1985, Nancy Reckmeyer petitioned the District Court to preserve her interest in her husband's forfeited property. At that time she raised three contentions: first, that her joint interest in her husband's real property could not be forfeited; second, that certain forfeited property was in fact her own separate property, not derived from drug proceeds; and, third, that she was entitled to the return of certain property under her husband's plea agreement. She did not otherwise challenge the forfeiture of her husband's real property on the ground that it was not purchased with drug proceeds.

On October 22-24, 1985, the District Court held hearings on all claims relating to the Reckmeyer forfeitures. (J.App. 1). Nancy Reckmeyer presented no evidence at those hearings.

On March 4, 1986, the District Court entered its order denying Nancy Reckmeyer's petition. The Court held that the forfeiture laws prevented Nancy Reckmeyer from having ever obtained any title to her husband's real property; that she had made no attempt to carry her burden of showing that certain properties were hers independently; and that only her husband could complain of a breach of his plea agreement. (J.App. 21-22). Appellant filed a timely notice of appeal, raising only the issue of her joint property rights.

ARGUMENT

I. THE DISTRICT COURT PROPERLY FORFEITED CHRISTOPHER RECKMEYER'S REAL PROPERTY AS DRUG PROCEEDS

Christopher Reckmeyer's real property was forfeited by the District Court pursuant to the provisions of the Comprehensive Crime Control Act of 1984. That statute was enacted to enhance the use of forfeiture as a tool in combating drug trafficking. S. Rpt. No. 225, Comprehensive Crime Control Act of 1983, 98th Cong., 1st Sess. 191 (1983), reprinted in [1984] U.S. Code Cong. & Admin. News 3374 [hereinafter Legislative History]. The Legislative History of the statute cogently states:

> Today, few in the Congress or the law enforcement community fail to recognize that the traditional criminal sanctions of fine and imprisonment are inadequate to deter or punish the enormously profitable trade in dangerous drugs which, with its inevitable attendant violence, is plaguing the country. Clearly, if law enforcement efforts to combat racketeering and drug trafficking are to be successful, they must include an attack on the economic aspects of these crimes. Forfeiture is the mechanism through which such an attack may be made.

The purpose of the new statute was to cure some ambiguities and weaknesses of forfeiture law, by improving the procedures applicable in such cases. Id. at 192. The forfeiture prescribed by the 1984 act is essentially automatic. Property is forfeitable if it constitutes a defendant's proceeds from a drug business, is used to facilitate that business, or affords a source of control

over a continuing criminal enterprise. 21 U.S.C. §853(a). Once property falls within one of these categories, it "shall" be forfeited by the court. The property at issue in the present case was ordered forfeited after Christopher Reckmeyer pled guilty and admitted to facts clearly showing that these properties were purchased with drug proceeds. See United States v. Reckmeyer, 786 F.2d 1216 (4th Cir. 1986).

The most fundamental change enacted by the new statute was the codification of what is known as the "relation-back" principle. Section 853(c), of Title 21, states that "all right, title, and interest [in forfeitable property] vests in the United States upon the commission of the act giving rise to forfeiture under this section." The application of this principle to forfeiture cases was first recognized and approved in United States v. Stowell, 133 U.S. 1, 17-18 (1890). The 1984 statute removed any doubt that this principle was applicable in criminal forfeiture cases. Consequently, title to Reckmeyer's drug proceeds vested in the United States at the time he earned them, before he invested them in real property.

A necessary corollary of the relation-back principle is the voiding of any and all transfers of forfeitable assets to third parties. The statute also codifies this principle, stating "Any such property that is subsequently transferred to a person other than the defendant may be the subject of a special verdict of forfeiture and thereafter shall be ordered forfeited to the United States . . . ." This provision codifies the rule, again first

80-856 O - 88 - 7

recognized in Stowell, that forfeiture "avoids all intermediate sales and alienations, even to purchasers in good faith." United States v. Stowell, supra, 133 U.S. at 18. 2/

Congress explicitly stated its reasons for incorporating the relation-back principle in criminal cases. It noted that preconviction transfers of assets, if allowed to frustrate forfeiture, would dramatically undercut the use of forfeiture as a crime fighting tool. Legislative History, supra, at 195-196. It noted that such frustrating transfers had been avoided in civil cases through the use of the relation-back principle, and expressly sought to apply that principle in the criminal context. Id. at 196, 200-201.

The operation of these statutory provisions necessarily resulted in the forfeiture of Reckmeyer's real property in toto, including his wife's interest. The investment of Reckmeyer's drug proceeds into real estate, and his contemporaneous transfer of one-half of those proceeds to his wife, does not protect them from forfeiture. Title to those proceeds was held by the United States throughout, according to the relation-back doctrine; the subsequent transfer of those proceeds to Reckmeyer's wife is void. 3/

2/ The harshness of such an absolute rule has been considerably softened by the protections of innocent third parties contained in Section 853(n). See Argument II, infra.

3/ Appellant's claim that the relation-back doctrine should only apply to persons charged with a crime, or only when property provides a source of influence over an enterprise, is unsupportable. The portions of the Legislative History cited in support of this argument resulted in the third-party protection (Continued on next page.)

On appeal, for the first time, appellant seems to challenge the factual basis for the court's initial forfeiture ruling. It is argued that the government "has not linked the purchase of this property . . . to unlawful proceeds" (Br. 16), and that the "relation-back doctrine should not be applied absent "specific tracing of proceeds." (Br. 21). These claims were not part of any challenge in the court below, and accordingly should not be considered here. United States v. Lovasco, 431 U.S. 783, 788 n.7 (1976). It is particularly inappropriate to raise factual issues for the first time on appeal, when no record has been created in the District Court. United States v. Walker, 601 F.2d 1051, 1054-55 (9th Cir. 1979); Lowery v. United States, 258 F.2d 194, 195-96 (9th Cir. 1958). Indeed, appellant chose not to present any evidence, and thereby raise any factual issues, in the District Court. The District Court specifically noted appellant's failure below even to claim that the assets were not purchased with drug proceeds. (J. App. 22 n.4). No claim of factual insufficiency should now be entertained.

Had this claim been made below, the government would not have been required to specifically trace proceeds. A nondefendant may challenge a forfeiture order only under the petition procedures set forth in section 853(n) of Title 21. See 21 U.S.C. §853(k);

(Continued from previous page.)

contained in section 853(n). See Argument II, infra. Appellant would have the court interpret that Legislative History not as a guide to interpreting the statutory language, but to create wholly new protections, going far beyond the clear language of the statute.

Legislative History, supra, at 208. In those proceedings, the petitioner may claim either a pre-existing right to forfeited property or that they are a bona fide purchase of such property. See Argument II, infra. The petitioner bears the burden of proving such right, title or interest. 21 U.S.C. §853(n). Accordingly, the petitioner may not, as appellant now tries to do, simply demur, claiming an insufficient showing in the criminal case. Congress felt it appropriate to place the burden on the petitioner, because the government already would have established forfeitability in the criminal case. Legislative History, supra, at 209.

In any event, the factual disputes raised by appellant are frivolous. It is contended that Christopher Reckmeyer's "insignificant" legitimate income may have been sufficient to purchase these properties. (Br. 15). But this contention is belied by the enormous acreage and value of the property involved. (J. App. 24-54). To the extent that loans were the source of the funds used to purchase these properties (Br. 15-16), those loans are recorded by deeds of trust included in the record. (J. App. 29).

In short, there was ample proof in the District Court that these properties were purchased with drug proceeds. To prevail in the criminal forfeiture context, the government need only establish that a defendant acquired property during the period of the Title 21 violations, and that there was no likely source for the purchase of the property other than drug proceeds. 21 U.S.C. §853(d). Clearly, the government met this burden by virtue of

Reckmeyer's plea and his factual admissions. See United States v. Reckmeyer, supra.

II. APPELLANT'S ATTEMPT TO EXEMPT FROM FORFEITURE MILLIONS OF DOLLARS OF HER HUSBAND'S DRUG PROCEEDS WAS DENIED PROPERLY

In effect, appellant seeks to retain millions of dollars in drug proceeds earned in a marijuana distribution operation controlled by her husband. Appellant claims that she is the holder of an undivided interest in forfeited real property because she held that property jointly with her husband, either as tenants by the entirety or in common. She claims that the forfeiture statute cannot reach her interest, which is legally separable from her husband's. This argument rests on a fundamental mischaracterization of forfeiture law, and is not reconciled with contrary Virginia state or forfeiture decisions.

Once a forfeiture order has been entered, third parties may claim an interest in forfeited property by filing petitions for relief with the court. 21 U.S.C. §853(n). This procedural was enacted in recognition of the potentially harsh consequences of the relation-back principle on innocent persons. Legislative History, supra, at 207-208. The statute sets forth two circumstances in which a petitioner's interest in property will be protected:

> (A) The petitioner has a legal right, title, or interest in the property, and such right, title, or interest renders the order of forfeiture invalid in whole or in part because the right, title, or interest was vested in the petitioner rather than the defendant, or was superior to any right, title, or interest

> of the defendant at the time of the commission of the acts which gave rise to the forfeiture of the property under the section; or
>
> (B) The petitioner is a bona fide purchaser for value of the right, title, or interest in the property and was at the time of purchase reasonably without cause to believe that the property was subject to forfeiture under this section;

This provision provides the sole and exclusive judicial remedy for persons claiming an interest in forfeited property. 21 U.S.C. §853(k). The rights protected by this statutory section are quite limited. It provides only for legal claims to property. Congress clearly stated that the administrative remission process "would remain the appropriate exclusive remedy for third parties who are asserting not a legal basis for relief, but rather more equitable grounds." Legislative History, supra, at 208. In order to prevail, appellant's claim for relief must fit within one of these narrow statutory protections.

The District Court found that these protections do not support appellant's claim. She does not claim to be a bona fide purchaser of the property, as defined in subsection (B), but rather a party with a legal right to the property which rendered the order of forfeiture invalid. (Br. at 11-12). Omitted from appellant's citation to this statute is the language recognizing only those legal interests "vested in the petitioner rather than the defendant . . . at the time of the commission of the acts which gave rise to the forfeiture." 21 U.S.C. §853(n)(6)(A) (emphasis added). This clause precludes appellant's claim. Her right to the property came into existence after the acts giving

rise to the forfeiture, because the property was purchased with drug proceeds. Accordingly, she has no protected right to the property.

Moreover, appellant's argument rests on the assertion, unsupported by any authority, that the United States stands in the position of a judgment creditor of her husband. (Br. at 7-9). Accordingly, it is argued, the United States as creditor may not attach her independent property right in satisfaction of a claim against her husband. The initial premise of this claim is incorrect, however, and accordingly the arguments which rest on it must fail.

As noted by the District Court, the United States owns all of Christopher Reckmeyer's drug proceeds, and has owned them since they were illegally earned. (J. App. 22). This is the indisputable import of the relation-back principle. 21 U.S.C. §853(c). The United States has not sought to perfect or collect a judgment against Christopher Reckmeyer; it has collected those monies which never belonged to him. Clearly, application of creditor/debtor laws is not appropriate.

Thus, appellant's arguments relating to the protections provided tenancies by the entirety are inapposite. She never obtained a lawful interest in any property. Christopher Reckmeyer never had an interest in the proceeds used to purchase the property and could not have transferred any interest to her by investing those proceeds in joint property. The protections of state property law simply never came into effect. The relation-

back principle voids all transfers. 21 U.S.C. §853(c). No distinction is made between transfers which occur by gift, operation of law, or sale. The forfeiture imposed by Section 853 simply cannot be avoided by transferring the money to another person. Any other reading is contrary to the express legislative intent to combat such transfers, and would dramatically undermine the statute. In effect, it would allow drug traffickers to prevent forfeiture of one-half their proceeds simply by investing such proceeds in joint tenancies.

Even presuming the applicability of debtor/creditor principles, the United States still would prevail. Joint tenancies cannot defeat pre-existing claims. The cases cited by appellant all involve claims against property holders which arose after the creation of the joint property interest. See Vasilion v. Vasilion, 192 Va. 735, 66 S.E. 2d 599, 602 (1951) ("When an estate by the entireties is once set up, neither spouse can sever it by his or her sole act.") Virginia law, however, voids transfers made with the intent to circumvent pre-existing creditor claims. Va. Code §55-80. Transfers between spouses, occurring after a claim has arisen, are presumptively fraudulent:

> Voluntary gifts, etc., void as to prior creditors. -- Every gift, conveyance, assignment, transfer or charge . . . which is upon consideration of marriage, shall be void as to creditors whose debts shall have been contracted at the time it was made . . . .

Va. Code §55-81.

This statute has been applied to circumstances controlling the present case. A transfer of property by a bankruptcy debtor to himself and his wife as tenants by the entirety, after the debt had been reduced to judgment, was voided under this section. In re Porter, 37 Bkrtcy. 56, 65 (E.D. Va. 1984). This statutory provision does not even require a showing of intent to defraud; it requires only a showing that the transfer is without adequate consideration. Id. Love and affection between spouses does not constitute adequate consideration. Id. at 61. Clearly, Christopher Reckmeyer's transfer of a portion of his drug proceeds into real property held jointly with his wife is equally voidable.

In any event, state property rights cannot override federal law. Attempts by spouses to claim a right in forfeited property have been rejected consistently. For example, in United States v. One 1971 Chevrolet Corvette, etc., 393 F.Supp. 344 (E.D. Pa. 1975), title to a forfeited automobile was held by the entirety. It was forfeited as a consequence of the husband's use of it to transport counterfeit currency. The wife's claim that the husband's actions could not destroy her interest in the property was rejected. Id. at 347. See also United States v. One 1962 Ford Galaxie Sedan, 236 F.Supp. 529 (S.D. Cal. 1964) (seizure of wife's car because of illegal use by husband approved).

Clearly, cases such as these stand for the proposition that state property rights will not be allowed to frustrate federal forfeiture. To be sure, these cases involve in rem actions, and the courts clearly state that the use of a vehicle, not its title,

controls its forfeitability. But the principle underlying these decisions nonetheless applies to this case. If an asset is forfeitable under a federal statute, the existence of an innocent party's state property right in that asset will not prevent forfeiture. See Calero-Toledo v. Pearson Yacht Leasing, Co., 416 U.S. 663 (1974). Forfeitures are not unconstitutional just because they reach an innocent party's interest. Id.

Appellant's challenges to this statutory scheme are meritless. First, it is argued that appellant's right to the property cannot be the subject of an in personam forfeiture action to which she is not a party. Of course, the very presence of this case in the Court of Appeals shows that she has been allowed to intervene and assert her interest. Moreover, the effect of the District Court orders was merely to forfeit Christopher Reckmeyer's drug proceeds. Appellant never had an interest. The relation-back doctrine assures that a trafficker cannot circumvent forfeiture by transferring assets to others.

Second, appellant argues that Congress intended to void only transfers made in anticipation of indictment. The language of the statute, quite clearly, contains no such limitation. Reference to the legislative history in these circumstances is both unnecessary and inappropriate. Consumer Products Safety Commission v. GTE Sylvania, 447 U.S. 102, 108 (1980) ("Absent a clearly expressed legislative intention to the contrary, th[e] language [of the statute] must ordinarily be regarded as conclusive.") When Congress has created a clear, unrestricted statutory scheme, the

court should not create its own exemptions. United States v. Turkette, 452 U.S. 576, 580-81 (1981). In any event, appellant's interpretation of the legislative history is unfounded. Congress clearly intended to void all transfers which were less than "arms-length" and which could frustrate the aggressive forfeiture desired by Congress. Legislative History, supra, at 200-201.

Finally, appellant claims that her interest should not be forfeited because it would "work an extreme hardship . . . on an innocent party." (Br. at 16). To the extent this argument seeks equitable relief, it is not appropriately before this court. Legislative History, supra, at 208. Moreover, the government cannot agree that appellant is the naive, innocent bystander she now claims. The government stated, in response to similar unsupported claims in the District Court that it was prepared "to establish Nancy Reckmeyer's extensive knowledge of and involvement in the drug dealings of her husband." Government's Consolidated Reply to Petitioners' Memoranda on Forfeiture, at 5. Appellant responded to this offer by presenting no factual issues to the District Court, and making no attempt to premise any claim on her innocence. The District Court's forfeiture did not impose extreme hardship on appellant, it simply placed her in the same position as any other person who does not have the benefit of a spouse who has earned millions in the drug trade. In any event, the statute defines when a party is "innocent" and thereby protected. Appellant fails to fit the definition used by Congress.

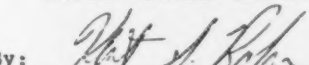
In conclusion, the government contends that the transfer of one-half of Christopher Reckmeyer's real property to his wife is precisely the sort of transfer the statute was designed to void. Congress sought to remove the economic incentive from the drug trade. Legislative History, supra, at 191. That goal would be seriously undermined if the families of drug traffickers were allowed to retain possession of sumptuous estates purchased with drug money.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the judgment of the District Court should be affirmed.

Respectfully submitted,

HENRY E. HUDSON
UNITED STATES ATTORNEY

By: 

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(703) 557-9100

CERTIFICATE OF SERVICE

I hereby certify that two copies of Appellee's Brief were mailed this day to counsel for appellant, Nicholas A. Lotito, Esquire, Fierer and Westby, 152 Nassau Street, Atlanta, Georgia 30303, this 12th day of August, 1986.

Kent S. Robinson
Assistant United States Attorney

By Order of United States Department of Justice
United States Marshals Service
National Asset Seizure & Forfeiture Program

AUCTION

37 IMPORTANT PROPERTIES

THROUGHOUT FLORIDA

MONDAY, NOVEMBER 17

11:00 A.M.
FT. LAUDERDALE, FLORIDA
Annapolis Marina • To be held on the premises

7:00 P.M. • MIAMI, FLORIDA
(18) South Florida Properties
to be held at the Radisson Hotel Ballroom
See Details Inside

THURSDAY, NOVEMBER 20

11:00 A.M.
ST. AUGUSTINE
FLORIDA
20,000 Square Foot Warehouse
See Details Inside

FRIDAY, NOVEMBER 21

11:00 A.M.
GLADES COUNTY, FLORIDA
Bar-K-Ranch
To be held on the premises

5:00 P.M. • PALM CITY, FLORIDA
Martin County Townhouse
See Details Inside

SATURDAY, NOVEMBER 22

2:00 P.M.
KEY WEST, FLORIDA
(12) Florida Keys Properties
to be held at
Marriott's Casa Marina Hotel Ballroom
See Details Inside

In addition, we have
included information on
TWO OCEANFRONT MOTELS and
ONE LUXURY CONDOMINIUM
in Daytona Beach, Florida
to be sold at a later date.
Call George Richards for Details

PREVIEWS
WILL BE HELD
ON EACH PROPERTY
See Details Inside

America's #1 Auction Team

Auction Company of America

Founder and Champion Auctioneer: JIM GALL
Auctioneers: JAMES E. (JIM) TURNER • JOHN KIKTA • WAYNE LAWRENCE • MARLY DOEDE
Associates: STEVE REIBEL • DOUG DENNISON • MARIE LIEBOWITZ • GEORGE RICHARDS

11:00 A.M. • MONDAY, NOVEMBER 17
FT. LAUDERDALE, FLORIDA

#1 Annapolis Marina

(Case Number 85-6721-CIVIL-KING)
Auction to be held on the premises

1915 S.W. 21 Avenue
Ft. Lauderdale, Florida

PREVIEW
10:00 A.M. to 2:00 P.M.
WEDNESDAY
NOVEMBER 12
(Also 2 Hours Prior to Auction)

FEATURES

- 9 Acres (Approximately)
- Covered Boat Slips
- Dry Storage Buildings
- Carpenter / Repair Shops
- Ships Store
- Dry Storage Areas
- Fuel Docks
- Unrestricted Access to Intercoastal Waterway and Ocean

DIRECTIONS

I-95 to Davie Road Exit. West to S.W. 21 Avenue (cross railroad tracks). South to Subject Property.

A $250,000 Cash or Cashier's Check Deposit Required on the Day of the Auction. An Additional $250,000 Deposit will be Required from the Top Bidder Within 5 Days of the Auction. No Exceptions Please!

DATE AND TIME OF AUCTION TO BE ANNOUNCED
DAYTONA BEACH, FLORIDA

#2 Sea Dip Oceanfront Motel

(Case Number C-86-525-G)

1233 South Atlantic Avenue
Daytona Beach, Florida

PREVIEW
TO BE ANNOUNCED

FEATURES

- 134 Unit Motel w/ 72 Efficiency Units
- 5-Story CBS Structure
- Zoning: T-1 (Tourist)
- 3 Elevators
- Office/Restaurant
- Outdoor Swimming Pool w/ Children's Pool
- Heated Indoor Pool
- 90 Parking Spaces

DIRECTIONS

I-95 North to Daytona Beach. Exit at Highway 92 East. Turn right to South Atlantic Avenue. Turn right to the Subject Property.

A $150,000 Cash or Cashier's Check Deposit Required on the Day of the Auction. An Additional $150,000 Deposit Will Be Required From the Top Bidder Within 5 Days of the Auction. No Exceptions Please!

7:00 P.M. • MONDAY, NOVEMBER 17
RADISSON HOTEL BALLROOM
MIAMI, FLORIDA

#2a Waterfront Lot

(Case Number 84-677-CIV)

5820 S.W. 117 Street
Coral Gables, Florida

PREVIEW
4:00 to 6:00 PM
FRIDAY
NOVEMBER 14

FEATURES

- 40,000 Sq. Ft. Lot (Approximately)
- Near Matheson Hammock Park

DIRECTIONS

U.S. 1 South to Old Cutler Road to Journeys End Road. Turn left to Subject Property.

A $45,000 Cash or Cashier's Check Deposit Required on the Day of the Auction. No Exceptions Please!

DATE AND TIME OF AUCTION TO BE ANNOUNCED
DAYTONA BEACH, FLORIDA

#3 **Sanibel Inn (Oceanfront)**

(Case Number C-86-527-G)

101 S. Ocean Avenue

Daytona Beach, Florida

PREVIEW
TO BE ANNOUNCED

FEATURES

- 58 Unit Oceanfront Motel
- 4 Story CBS Structure
- Large Pool/Patio
- Game Room
- Zoning T-1 (Tourist)
- Restaurant
- Sea Wall

DIRECTIONS

I-95 North to Daytona Beach. East on Highway 92 East. Turn left and continue to A1A. Turn left. Go South to Wendy's. Turn right. Property located on right side at Ocean Drive.

A $65,000 Cash or Cashier's Check Deposit Required on the Day of the Auction. An Additional $65,000 Deposit Will be Required from the Top Bidder Within 5 Days of the Auction. No Exceptions Please!

DATE AND TIME OF AUCTION TO BE ANNOUNCED
DAYTONA BEACH, FLORIDA

#3a **Luxury Waterfront Condominium**

645 S. Beach St., Unit 632

Marina Point Condominiums

Daytona Beach, Florida

PREVIEW
TO BE ANNOUNCED

FEATURES

- 2 BR/ 2 1/2 BA
- Swimming Pool
- Clubhouse
- Located With Views of the Halifax River

DIRECTIONS

I-95 North to Daytona Beach Exit. Exit at Highway 92 and proceed East to Ridgewood and turn right. Continue South to South Street. Turn left and continue to South Beach Street. Turn right to Subject Property.

A $20,000 Cash or Cashier's Check Deposit Required on the Day of the Auction. No Exceptions Please!

7:00 P.M. • SATURDAY, NOVEMBER 22
CASA MARINA BALLROOM, KEY WEST, FLORIDA

#4 **Mini Storage Warehouse**

(Case Number 84-176-CR-NCR)

100 Fifth Street

Stock Island (Key West), Florida

PREVIEW
12:00 NOON to 2:00 PM
THURSDAY, NOVEMBER 20

FEATURES

- 3 CBS Warehouse Buildings
- 25 Units Each Building
- 72 Total Units
- Apartment/Office: 1 BR, 1BA
- 8' Fence
- Electric Gates w/ Key-Card Security

DIRECTIONS

U.S. 1 South to Stock Island. Turn left at Fifth Street to Subject Property.

A $50,000 Cash or Cashier's Check Deposit Required on the Day of the Auction. An Additional $50,000 Deposit Will Be Required from the Top Bidder Within 5 Days of the Auction. No Exceptions Please!

11:00 A.M. • FRIDAY, NOVEMBER 21
GLADES COUNTY, FLORIDA

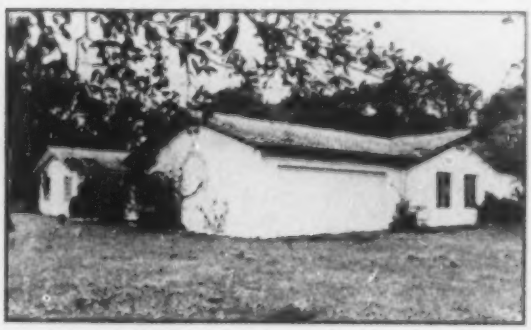
#5 **Bar-K-Ranch**
Single Family Home and Acreage

(Case Number 3:85-586-n-SC) • To be held on the premises

State Road 720, Jack's Creek Branch

Glades County, Florida

PREVIEW
12:00 NOON to 2:00 PM
TUESDAY, NOVEMBER 11
(Also 2 Hours Prior to Auction)



FEATURES

- 289 Acres (Approximately)
- Zoned Agricultural
- 4 BR/2 BA Single Family Home
- Swimming Pool
- 2 Horse Barns
- Garage/Shed
- Mobile Home

DIRECTIONS

From Miami, take U.S. 27 South to Clewiston. Continue on Southern of Hwy. 80 and turn left to Caloosa. Turn right on Hwy. 29. Proceed North on State Road 722. Turn left to State Road 720. Turn right to Subject Property.

A $47,500 Cash or Cashier's Check Deposit Required on the Day of the Auction. An Additional $47,500 Deposit Will Be Required from the Top Bidder Within 5 Days of the Auction. No Exceptions Please!

11:00 A.M. • THURSDAY, NOVEMBER 20
ST. AUGUSTINE, FLORIDA

#6 **Warehouse Complex & Acreage**

(Case Number 85-85-CIV-J-14) • To be held on the premises.

Tolomato Industrial Park

St. Augustine, Florida

PREVIEW
12:00 NOON to 2:00 PM
TUESDAY, NOVEMBER 11
(Also 2 Hours Prior to Auction)

FEATURES
- 4 Industrial Buildings
- 44 Acres (Approximately)

DIRECTIONS

I-95 North to St. Augustine Exit. Turn right and continue North on U.S. 1. Property is located Approximately 2 miles north of the St. Augustine Airport.

A $35,000 Cash or Cashier's Check Deposit Required on the Day of the Auction. An Additional $35,000 Deposit Will Be Required from the Top Bidder Within 5 Days of the Auction. No Exceptions Please!

7:00 P.M. • MONDAY, NOVEMBER 17
RADISSON HOTEL BALLROOM, MIAMI, FLORIDA

#7 **Single Family Home & Horse Farm**

(Case Number 3:85-584-6-SC)

22800 S.W. 194 Avenue

Miami, Florida

PREVIEW
9:00 to 11:00 AM
THURSDAY, NOVEMBER 13

FEATURES
- 4 BR/2 BA (2,885 sq. ft.)
- 12.94 Acres (Approx.)
- Family Room
- 2 Car Garage
- 30 Horse Stable/Barn
- Tack Room
- Exercise Ring
- Feed Storage Barns
- Mobile Home

DIRECTIONS

U.S. 1 South to Silver Palm Dr. (S.W. 232 St.) West to S.W. 194 Ave. (2 miles west of Krome Ave.). Turn left to Subject Property which is 1/2 mile on the left.

A $50,000 Cash or Cashier's Check Deposit Required on the Day of the Auction. No Exceptions Please!

7:00 P.M. • MONDAY, NOVEMBER 17
RADISSON HOTEL BALLROOM, MIAMI, FLORIDA

#8 **Single Family Home**

(Case Number 86-167-CIV-EPS)

13505 S.W. 98 Court

Miami, Florida

PREVIEW
12:00 NOON to 2:00 PM
THURSDAY, NOVEMBER 13

FEATURES

- 5 BR/3 BA (3,140 sq. ft.)
- Screened Patio/Pool
- Sprinkler System
- Double Garage

DIRECTIONS

U.S. 1 South to Howard Drive (S.W. 136 St.). Turn right to S.W. 98th Court. Turn right to the Subject Property.

A $35,000 Cash or Cashier's Check Deposit Required on the Day of the Auction. No Exceptions Please!

7:00 P.M. • MONDAY, NOVEMBER 17
RADISSON HOTEL BALLROOM, MIAMI, FLORIDA

#9 **Single Family Home**

(Case Number 84-1295-CIV-JWK)

12940 North Calusa Club Drive

Miami, Florida

PREVIEW
3:00 to 5:00 PM
THURSDAY, NOVEMBER 13

FEATURES

- 4 BR/3 BA House
- Swimming Pool
- Jacuzzi
- 2 Car Garage Converted to Family Room
- Located on Golf Course

DIRECTIONS

State Road 826 (Palmetto Expressway) to S.W. 80 Street (Bird Drive). Go West to S.W. 152 Avenue, entrance to Calusa Club Estates. Turn left and follow N. Calusa Club Drive to curve to road. Turn left to the Subject Property on Corner.

A $35,000 Cash or Cashier's Check Deposit Required on the Day of the Auction. No Exceptions Please!

7:00 P.M. • MONDAY, NOVEMBER 17
RADISSON HOTEL BALLROOM, MIAMI, FLORIDA

#10 **Single Family Pool Home**

(Case Number 84-0853-CH-Section)

7560 S.W. 67 Street
Miami, Florida

PREVIEW
12:00 NOON to 2:00 PM
FRIDAY, NOVEMBER 14

FEATURES

- 4 BR/3 BA
- Living/Dining Combination
- Swimming Pool
- 2 Car Garage
- Wrought Iron Fencing on Entire Lot

DIRECTIONS

Main Road Kiosk: Proceed Northwest south to Sunset Drive. SW 72 Street. East to 67 Street. East on 72 Street to SW 64 Court. Turn left (North) on the west of SW 64 Court. Turn left and continue to Subject Property.

A $35,000 Cash or Cashier's Check Deposit Required on the Day of the Auction. No Exceptions Please!

7:00 P.M. • MONDAY, NOVEMBER 17
RADISSON HOTEL BALLROOM, MIAMI, FLORIDA

#12 **Single Family Waterfront Home**

(Case Number 85-1054-CH-GCN)

460 Sunset Drive
Hallandale, Florida

PREVIEW
3:00 to 5:00 PM
SATURDAY, NOVEMBER 15

FEATURES

- 3 BR/2 BA
- Eat-in Kitchen, Ceramic Tile Floors and Appliances
- 2 Car Garage
- Swimming Pool
- Screened Patio
- Sun Deck Facing

DIRECTIONS

I-95 to Hallandale Beach Boulevard. East and continue across US 1 to Lake Boulevard. Turn right on Sunset Drive. Left on to Subject Property.

A $35,000 Cash or Cashier's Check Deposit Required on the Day of the Auction. No Exceptions Please!

2:00 P.M. • SATURDAY, NOVEMBER 22
CASA MARINA BALLROOM, KEY WEST, FLORIDA

#11 Vacant Lots

(Case Number 84-176-CR-NCR)

Flagler Avenue/Roosevelt Blvd.
Key West, Florida

PREVIEW
3:00 to 5:00 PM
FRIDAY, NOVEMBER 21

FEATURES
- Commercial Zoning
- Close to Key West Airport

DIRECTIONS

U.S. 1 South to Key West. Turn left at Amoco Station. Turn left to Flagler Avenue. Turn left to Subject Property.

A $35,000 Cash or Cashier's Check Deposit Required on the Day of the Auction. No Exceptions Please!

7:00 P.M. • MONDAY, NOVEMBER 17
RADISSON HOTEL BALLROOM, MIAMI, FLORIDA

#13 Single Family Pool Home

(Case Number 85-268-CIV-JR)

4101 Battersea Road
Coconut Grove, Florida

PREVIEW
12:00 NOON to 2:00 PM
SATURDAY, NOVEMBER 15

FEATURES
- 3 BR/4 BA (2,801 sq. ft.)
- 2-Story
- Swimming Pool
- Jacuzzi
- Waterfall/Pond in Patio
- Balcony

DIRECTIONS

U.S. 1 South to Ludlam Road (S.W. 42 Avenue). Turn left to Battersea Road. Turn left to Subject Property.

A $30,000 Cash or Cashier's Check Deposit Required on the Day of the Auction. No Exceptions Please!

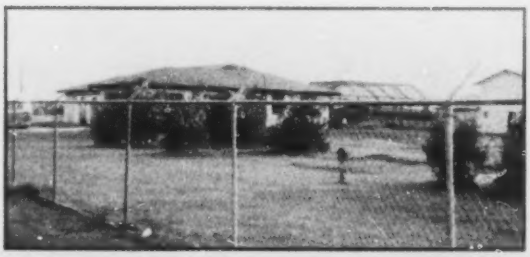
7:00 P.M. • MONDAY, NOVEMBER 17
RADISSON HOTEL BALLROOM, MIAMI, FLORIDA

#14 Single Family Pool Home

(Case Number 86-0553 CIV KOHOE)

1250 S.W. 144 Avenue
Miami, Florida

PREVIEW
9:00 to 11:00 AM
FRIDAY, NOVEMBER 14



FEATURES

- 4 BR / 2½ BA 3,134 sq. ft.
- Large Screened Pool
- Outdoor Gazebo w/Gas BBQ Grill
- 2.1 Acres
- Goldfish Pond
- 2-Car Garage
- Horse Stables
- Riding Ring
- Detached Apartment

DIRECTIONS

State Road 826 (Palmetto Expressway) to S.W. 8 Street. Exit west, to S.W. 140 Avenue (not marked) near Truly Nolan billboard. Turn left and follow gravel road south to Subject Property.

A $25,000 Cash or Cashier's Check Deposit Required on the Day of the Auction. No Exceptions Please!

7:00 P.M. • MONDAY, NOVEMBER 17
RADISSON HOTEL BALLROOM
MIAMI, FLORIDA

#16 Single Family Home
Avocado Grove, Ranch

(Case Number 84-2761-6)

6501 S.W. 184 Street
Miami, Florida

PREVIEW
9:00 to 11:00 AM
THURSDAY
NOVEMBER 13

FEATURES

- 3 BR/2 BA Residence
- Detached 2 Car Garage
- 10 Acres Planted in Avocado Trees
- Gated Security Fence

DIRECTIONS

Florida Turnpike south to S.W. 184 Street (Quail Roost Drive). Turn west to Subject Property. (10 more approx.) Ranch is located on north side of S.W. 184 Street.

A $20,000 Cash or Cashier's Check Deposit Required on the Day of the Auction. No Exceptions Please!

7:00 P.M. • MONDAY, NOVEMBER 17
RADISSON HOTEL BALLROOM
MIAMI, FLORIDA

#17 Single Family Home
& Acreage

(Case Number 84-176-CR-NCR)

28250½ S.W. 172 Avenue
Miami, Florida

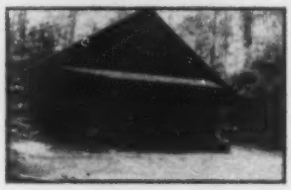
PREVIEW
12:00 NOON
to 2:00 PM
THURSDAY
NOVEMBER 13

FEATURES

- 3 BR/2 BA Home
- 2½ Acres (Approximately)
- Private Entrance

DIRECTIONS

U.S. 1 south to S.W. 272 Street. Turn right to S.W. 172 Avenue. Turn left across bridge and turn right. Property for sale is on left.



A $20,000 Cash or Cashier's Check Deposit Required on the Day of the Auction. No Exceptions Please!

2:00 P.M. • SATURDAY, NOVEMBER 22
CASA MARINA BALLROOM, KEY WEST, FLORIDA

#15 **Single Family Pool Home**

(Case Number 84-176-CR-NCR)

1610 Trinidad Street
Key West, Florida

PREVIEW
9:00 to 11:00 AM
FRIDAY, NOVEMBER 21

FEATURES

- 2 BR/2 BA
- Swimming Pool, Patio

DIRECTIONS

US 1 South to Key West. Turn left at Amoco Station to Flagler Avenue. Turn left to Venetian Drive. Turn right to Trinidad Street. Subject Property is in middle of block on left.

A $25,000 Cash or Cashier's Check Deposit Required on the Day of the Auction. No Exceptions Please!

7:00 P.M. • MONDAY, NOVEMBER 17
RADISSON HOTEL BALLROOM
MIAMI, FLORIDA

#18 **Brickell Harbour Condominium**

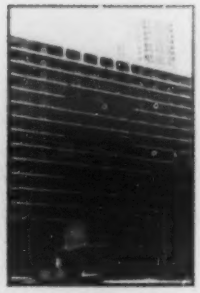
(Case Number 85-269-CIV-K)

200 S.E. 15th Road
Unit 12-B
Miami, Florida

PREVIEW
9:00 to 11:00 AM
SATURDAY
NOVEMBER 15

FEATURES

- 2 BR, 2 BA, 984 sq. ft.
- Unfurnished
- Private Balcony Overlooking Bayfront
- Electric Heat
- Heat Pump
- Tile Floors Throughout
- Central Electric



DIRECTIONS

US 1 South to Brickell Avenue. Follow Brickell Avenue to S.E. 15th Street. Turn left. Building is on left side.

A $15,000 Cash or Cashier's Check Deposit Required on the Day of the Auction. No Exceptions Please!

7:00 P.M. • MONDAY, NOVEMBER 17
RADISSON HOTEL BALLROOM
MIAMI, FLORIDA

#19 **Single Family Pool Home**

(Case Number 86-201)

517 N.E. 6th Avenue
Deerfield Beach
Florida

PREVIEW
11:00 AM to 1:00 PM
SATURDAY
NOVEMBER 15

FEATURES

- 3 BR/2 BA, 1,232 sq. ft.
- Split Floor Plan
- Screened Pool & Patio
- Tile Roof & Tile Trim
- Indoor Laundry
- Tile, Wall-to-Wall Carpet
- Central Access to Intracoastal Waterway

DIRECTIONS

I-95 North to Hillsboro Boulevard. Go East and proceed to N.E. 6th Avenue. Turn left to Subject Property.

A $15,000 Cash or Cashier's Check Deposit Required on the Day of the Auction. No Exceptions Please!

7:00 P.M. • MONDAY, NOVEMBER 17
RADISSON HOTEL BALLROOM
MIAMI, FLORIDA

#20 Costa Del Sol Townhouse
(Case Number 82-2316-CIV-EBD)
3751 Estepona Avenue, Unit 19 B2
Miami, Florida

PREVIEW
3:00 to 5:00 PM
FRIDAY
NOVEMBER 14

FEATURES
- 3 BR/2½ BA (1,949 sq. ft.)
- 2 Story
- Double Carport
- Wrought Iron Gates
- Private Entrance w/24 Hour Security
- Located on Canal

DIRECTIONS
State Road 826 (South Palmetto Expressway) to N.W. 36 Street. East West and continue to N.W. 97 Avenue. Turn left to entrance to Costa del Sol. Turn right to Estepona Avenue. Turn left to Subject Property.

A $15,000 Cash or Cashier's Check Deposit Required on the Day of the Auction. No Exceptions Please!

2:00 P.M. • SATURDAY, NOVEMBER 22
CASA MARINA BALLROOM
KEY WEST, FLORIDA

#21 Single Family Home
(Case Number 84-176-CR-NCR)
2805 Venetian Drive
Key West, Florida

PREVIEW
3:00 to 5:00 PM
THURSDAY
NOVEMBER 20

FEATURES
- 3 BR/2 BA
- Carport

DIRECTIONS
U.S. 1 South to Key West. Turn left at Amoco Station to Flagler Avenue. Turn left to Venetian Drive. Turn right to Subject Property.

A $15,000 Cash or Cashier's Check Deposit Required on the Day of the Auction. No Exceptions Please!

7:00 P.M. • MONDAY, NOVEMBER 17
RADISSON HOTEL BALLROOM
MIAMI, FLORIDA

#24 Single Family Home
(Case Number 85-3927-CIV-EBD)
10322 S.W. 116 Street
Miami, Florida

PREVIEW
3:00 to 5:00 PM
THURSDAY
NOVEMBER 13

FEATURES
- 3 BR/2 BA
- Lot Size 125x135
- Office
- Double Garage

DIRECTIONS
Florida Turnpike South to S.W. 152 Street. East West and go under Turnpike. Turn left at first intersection S.W. 117 Avenue. Proceed North to S.W. 112 Avenue. Turn right to 107 Avenue. Turn right to 116 Street. Turn left to Subject Property.

A $15,000 Cash or Cashier's Check Deposit Required on the Day of the Auction. No Exceptions Please!

2:00 P.M. • SATURDAY, NOVEMBER 22
CASA MARINA BALLROOM
KEY WEST, FLORIDA

#25 Single Family Home
(Case Number 84-176-CR-NCR)
1614 Trinidad Drive
Key West, Florida

PREVIEW
12:00 NOON to 2:00 PM
FRIDAY
NOVEMBER 21

FEATURES
- 3 BR/2 BA
- Lot 50x100
- Carport/Porch

DIRECTIONS
U.S. 1 South to Key West. Turn left at Amoco Station to Flagler Avenue. Turn left to Venetian Drive. Turn right to Trinidad Drive to Subject Property.

A $10,000 Cash or Cashier's Check Deposit Required on the Day of the Auction. No Exceptions Please!

2:00 P.M. • SATURDAY, NOVEMBER 22
CASA MARINA BALLROOM
KEY WEST, FLORIDA

#22 **Single Family Pool Home**
(Case Number 84-176-CR-NCR)
1631 Venetian Drive
Key West, Florida

PREVIEW
3:00 to 5:00 P.M.
FRIDAY
NOVEMBER 21

FEATURES
- 2 BR/1 BA
- Swimming Pool

DIRECTIONS
U.S. 1 South to Key West. Turn left at Amoco Station to Flagler Avenue. Turn left to Venetian Drive. Turn right to Subject Property.

A $15,000 Cash or Cashier's Check Deposit Required on the Day of the Auction. No Exceptions Please!

2:00 P.M. • SATURDAY, NOVEMBER 22
CASA MARINA BALLROOM
KEY WEST, FLORIDA

#23 **Waterfront Home**
(Case Number 84-176-CR-NCR)
2819 Venetian Drive
Key West, Florida

PREVIEW
9:00 to 11:00 AM
THURSDAY
NOVEMBER 20

FEATURES
- Waterfront
- 2 BR/2 BA
- 1 Story w/Carport

DIRECTIONS
U.S. 1 South to Key West. Turn left at First Amoco Station to Flagler Avenue. Turn left to Venetian Drive. Turn right to Subject Property.

A $15,000 Cash or Cashier's Check Deposit Required on the Day of the Auction. No Exceptions Please!

2:00 P.M. • SATURDAY, NOVEMBER 22
CASA MARINA BALLROOM
KEY WEST, FLORIDA

#26 **Single Family Home**
(Case Number 84-176-CR-NCR)
1620 Venetian Drive
Key West, Florida

PREVIEW
9:00 to 11:00 AM
THURSDAY
NOVEMBER 20

FEATURES
- 2 BR/2 BA
- A Frame Structure
- Double Carport and Storage Area

DIRECTIONS
U.S. 1 South to Key West. Turn left at Amoco Station to Flagler Avenue. Turn left to Venetian Drive. Turn right to Subject Property.

A $10,000 Cash or Cashier's Check Deposit Required on the Day of the Auction. No Exceptions Please!

7:00 P.M. • MONDAY, NOVEMBER 17
RADISSON HOTEL BALLROOM
MIAMI, FLORIDA

#27 **Ramblewood Condominium**
(Case Number 84-176-CR-NCR)
13707 Kendale Lakes Circle, Penthouse 413
Miami, Florida

PREVIEW
9:00 to 11:00 AM
FRIDAY
NOVEMBER 14

FEATURES
- 2 BR/2 BA
- Balcony

DIRECTIONS
From the Florida Turnpike take Bird Road (S.W. 40 Street) West to S.W. 137 Avenue. Turn left (South) to S.W. 136 Street (Kendale Lakes Circle). Turn right (West) to Subject Property.

A $10,000 Cash or Cashier's Check Deposit Required on the Day of the Auction. No Exceptions Please!

5:00 P.M. • FRIDAY, NOVEMBER 21
3090 SUNSET TRACE CIRCLE #2402
PALM CITY, FLORIDA

#28 Townhouse

(Case Number 86-8285-CIV-CP)

To be held on site:
3090 Sunset Trace Circle, Unit 2402
Palm City (Martin Co.), Florida

PREVIEW
3:00 to 5:00 PM
SATURDAY
NOVEMBER 15

FEATURES
- 2 BR, 2 BA (920 sq. ft.)
- Tennis Court
- Swimming Pool
- Club House
- 24-Hour Security
- Jacuzzi
- 2-Story Construction

DIRECTIONS
Florida Turnpike to Sunset Exit. Turn right.

A $10,000 Cash or Cashier's Check Deposit Required on the Day of the Auction. No Exceptions Please!

2:00 P.M. • MONDAY, NOVEMBER 17
RADISSON HOTEL BALLROOM
MIAMI, FLORIDA

#29 Condominium

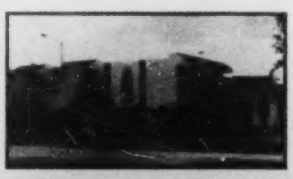
(Case Number 4-84-2654-15)

Peninsula at International Gardens, Unit 316, Bldg. II, 1300 S.W. 122 Ave.
Miami, Florida

PREVIEW
12:00 NOON
to 2:00 PM
FRIDAY
NOVEMBER 14

FEATURES
- 2 BR, 2 BA (1,260 sq. ft.)
- Balcony
- Swimming Pool
- Sauna
- Recreation Room

DIRECTIONS
State Road 826 (Palmetto Expressway) to S.W. 8th Street. Exit West to S.W. 122 Avenue. Turn left. Project one mile on right.



A $10,000 Cash or Cashier's Check Deposit Required on the Day of the Auction. No Exceptions Please!

7:00 P.M. • MONDAY, NOVEMBER 17
RADISSON HOTEL BALLROOM
MIAMI, FLORIDA

#32 Magnum Bungalow Court Condominium

(Case Number 4-84-2661-15)

8422 S.W. 38 Street, Unit 9
Miami, Florida

PREVIEW
3:00 to 5:00 PM
FRIDAY
NOVEMBER 14

FEATURES
- 2 BR/2 BA (795 sq. ft.)
- Central Air Conditioning

DIRECTIONS
State Road 826 (Palmetto Expressway) South to Bird Road (S.W. 40 Street). Exit West to S.W. 87 Avenue. Turn right to S.W. 38 Street. Turn right to Subject Property.

A $6,000 Cash or Cashier's Check Deposit Required on the Day of the Auction. No Exceptions Please!

2:00 P.M. • SATURDAY, NOVEMBER 22
CASA MARINA BALLROOM
KEY WEST, FLORIDA

#33 Casa Solana Condominium

(Case Number 84-176-CR-NCR)

3312 Northside Drive, Unit 122
Key West, Florida

PREVIEW
NOON to 2:00 PM
FRIDAY
NOVEMBER 21

FEATURES
- 2 BR/2 BA Condominium
- Pool Deck
- Tennis Courts
- 24-Hour Security

DIRECTIONS
U.S. 1 South to Key West. Turn left at Searstown. Project just behind Sears.

A $6,000 Cash or Cashier's Check Deposit Required on the Day of the Auction. No Exceptions Please!

7:00 P.M. • MONDAY, NOVEMBER 17
RADISSON HOTEL BALLROOM
MIAMI, FLORIDA

#30 Condominium
(Case Number 4 84 2663-15)

Peninsula at International Gardens,
Unit 216, Bldg. II, 1300 S.W. 122 Ave.
Miami, Florida

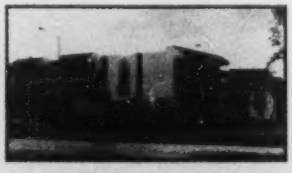
PREVIEW
12:00 NOON to 2:00 PM
FRIDAY
NOVEMBER 14

FEATURES

- 2 BR, 2 BA (1,260 sq. ft.)
- Balcony
- Swimming Pool
- Sauna
- Recreation Room

DIRECTIONS

State Road 826 (Palmetto Expressway) to S.W. 8th Street. Exit West to S.W. 122 Avenue. Turn left. Project one mile on right.



A $10,000 Cash or Cashier's Check Deposit Required on the Day of the Auction. No Exceptions Please!

2:00 P.M. • SATURDAY, NOVEMBER 22
CASA MARINA BALLROOM
KEY WEST, FLORIDA

#31 Vacant Residential Lot
(Case Number 84-176-CR-NCR)

3001 Venetian Drive
Key West, Florida

PREVIEW
12:00 NOON to 2:00 PM
THURSDAY
NOVEMBER 20

FEATURES

- Waterfront Lot
- Sea Wall/Dock
- Large Corner Lot

DIRECTIONS

U.S. 1 South to Key West. Turn left at first Amoco Station to Flagler Avenue. Turn left to Venetian Drive. Turn right to Subject Property.

A $10,000 Cash or Cashier's Check Deposit Required on the Day of the Auction. No Exceptions Please!

2:00 P.M. • SATURDAY, NOVEMBER 22
CASA MARINA BALLROOM
KEY WEST, FLORIDA

#34 Vacant Lot
(Case Number 84-176-CR-NCR)

Lot 13, Block 4
Summerland Key, Florida

PREVIEW
3:00 to 5:00 PM
THURSDAY
NOVEMBER 20

FEATURES

- Canal Front

DIRECTIONS

From U.S. Highway 1 on Summerland Key (mile marker 24) take West Shore Drive South to property.

A $2,500 Cash or Cashier's Check Deposit Required on the Day of the Auction. No Exceptions Please!

2:00 P.M. • SATURDAY, NOVEMBER 22
CASA MARINA BALLROOM
KEY WEST, FLORIDA

#35 Vacant Lots
(Case Number 84-176-CR-NCR)

Lot 40, 41, 42, Block 9
Indian Mound Estates
Sugarloaf Key, Florida

PREVIEW
9:00 to 11:00 AM
FRIDAY
NOVEMBER 21

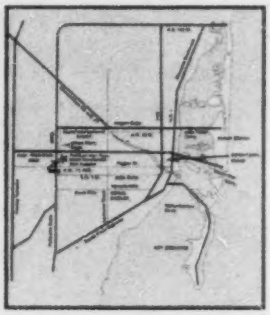
FEATURES

- 3 Contiguous Lots

DIRECTIONS

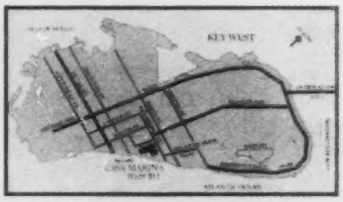
From U.S. Highway 1 on Sugarloaf Key (mile marker 20) take Crane Boulevard North to Tequesta Street. Turn right (East) to property.

A $2,500 Cash or Cashier's Check Deposit Required on the Day of the Auction. No Exceptions Please!



TERMS:

- All properties sold subject to confirmation by The United States Marshals Service.
- Buyer to obtain financing.
- The properties will be sold in "AS IS" condition.
- Closing to be held in approximately 60 days.
- All information in this brochure was derived from sources believed correct, but is not guaranteed. Buyers shall rely entirely on their own information, judgement and inspection of property and records.
- All announcements from the Auction Block will take precedence over any previously printed material or any other oral statements made.
- Title 18 U.S.C. Section 1963(g) and 21 U.S.C. Section 853(h) of the Comprehensive Crime Control Act of 1984 prohibit the United States Government from reverting forfeited property to the defendant(s) convicted of a violation under 18 U.S.C. Section 1962 or 21 U.S.C. Section 841 et seq., or to any person acting in concert with, or on behalf of, such defendant(s). The top bidder will be required to certify they are not acting in concert with any defendant(s).



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NOVEMBER 17-22

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